FEDERAL REGISTER

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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 9895

EXEMPTION OF CERTAIN OFFICERS OF THE EXECUTIVE BRANCH OF THE GOVERNMENT FROM COMPULSORY RETIREMENT FOR AGE

NOTE: Executive Order No. 9895 was filed with the Division of the Federal Register as N. P. Doc. No. 47-285, on October 1, 1947, at 11:10 a. m.

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Production and Marketing Administration (Commodity Credit)

[1947 C. C. C. Wheat Bulletin 1, Amdt. 2 to Supp. 2]

PART 251—WHEAT LOANS AND PURCHASE AGREEMENTS

1947 WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM (PORTLAND AREA)

Pursuant to the provisions of Article Third, paragraphs (b) and (j) of the Corporate Charter of Commodity Credit Corporation, sec. 7 (a) 49 Stat. 4 as amended, sec. 8, 56 Stat. 767 as amended; 15 U. S. C. Sup. 713 (a) 50 U. S. C. App., Sup., 968, Commodity Credit Corporation and the Production and Marketing Administration have issued, in 1947 C. C. C. Wheat Bulletin 1 and Supplements 1 and 2 thereto (12 F R. 4167, 4257, 4861) regulations governing loans and purchase agreements made available on wheat produced in 1947. Such regulations are hereby amended as follows:

In § 251.130, *County and station rates, discounts, and premiums (Portland area)* under the schedule of rates for Umatilla County in paragraph (a) add the following station and rate:

Station	*Rate*
McBee	$1.799

[SEAL] JESSE B. GILMER,
President,
Commodity Credit Corporation.

SEPTEMBER 26, 1947.

[F. R. Doc. 47-8909; Filed, Oct. 1, 1947; 8:45 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

By virtue of the authority vested in the Secretary of Agriculture by the Federal Insecticide, Fungicide, and Rodenticide Act, approved June 25, 1947 (Pub. Law 104, 80th Cong.) and the Administrative Procedure Act (60 Stat. 237), the following regulations are hereby promulgated:

Sec.
162.1 Words in singular form.
162.2 Terms defined and construed.
162.3 Administration.
162.4 Language to be used.
162.5 Omission of label or labeling.
162.6 Label.
162.7 Ingredient statement.
162.8 Economic poisons highly toxic to man.
162.9 Warning or caution statement.
162.10 Registration.
162.11 Guarantee of economic poisons.
162.12 Coloration and discoloration.
162.13 Adulteration; valuable constituent.
162.14 Misbranding.
162.15 Enforcement.
162.16 Notice of judgment.
162.17 Shipments for experimental use.
162.18 Exemption.

AUTHORITY: §§ 162.1 to 162.18, inclusive, issued under Pub. Law 104, 80th Cong., 60 Stat. 237.

§ 162.1 *Words in singular form.* Words used in the singular form in the regulations in this part shall include the plural, and vice versa, as the case may require.

§ 162.2 *Terms defined and construed.* All terms used in these regulations in this part shall have the meaning set forth for such terms in the act. In addition, such terms shall be construed as follows:

(a) *Act.* "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) *Director* "Director" means the Director of the Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, or any officer or employee to whom he has heretofore lawfully delegated or to whom he may hereafter lawfully delegate the authority to act in his stead.

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(c) *Economic poison*. "Economic poison" includes insecticides, fungicides, rodenticides and herbicides. A product shall be deemed to be an economic poison regardless of whether intended for use as packed or after dilution or mixture with other substances, such as carriers or baits. Products intended only for use after further processing or manufacturing, such as grinding to dust form or more extensive operations, shall not be deemed to be economic poisons. Substances which have recognized commercial uses other than uses as economic poisons shall not be deemed to be economic poisons unless such substances are (1) specially prepared for use as economic poisons, or (2) labeled, represented, or intended for use as economic poisons, or (3) marketed in channels of trade where they will presumably be purchased as economic poisons.

(d) *Fungicide*. "Fungicide" includes but is not limited to:

(1) Plant fungicides, seed fungicides, fungicidal wood preservatives, and mildew and mold preventatives,

(2) Disinfectants, antiseptics and sterilizers, except those for use only on or in living man or other animals.

The term "fungicide" shall not include algaecides.

(e) *Active ingredient*. An "active ingredient" is an ingredient which:

(1) Is capable in itself, and when used in the same manner and for the same purposes as directed for use of the product, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds or other pests; and

(2) Is present in the product in an amount sufficient to add materially to its effectiveness; and

(3) Is not antagonistic to the activity of the principal active ingredient;

Provided, however That the Director may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the economic poison to warrant such action.

(f) *Rodent*. "Rodent" means any animal of the order Rodentia, including, but not limited to, rats, mice, rabbits, gophers, prairie dogs and squirrels.

(g) *Official investigator*. "Official investigator" means any employee or agent of the Department of Agriculture or the Treasury Department authorized by the Director or by the Secretary of the Treasury to make investigations in connection with enforcement of the act.

§ 162.3 *Administration*. The Director is authorized to take such action as, in his discretion, may be necessary in the administration and enforcement of the act and the regulations in this part.

§ 162.4 *Language to be used*. All statements, words and other information required by the act or the regulations in this part to appear on the label or labeling of any economic poison shall be in the English language; *Provided*, That in the case of articles intended solely for distribution to points outside the continental United States the appropriate foreign language may be used in lieu of the English language.

§ 162.5 *Omission of label or labeling*. The omission of a label or labeling from any economic poison shall not affect any provision under the act or the regulations in this part with respect to any statement required to appear on such label or labeling.

§ 162.6 *Label*—(a) *Contents of label*. The label of every economic poison must show, clearly and prominently, the name of the product; the name and address of the manufacturer, the registrant, or person for whom manufactured; the net contents; the ingredient statement; and a warning or caution statement which may be necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals. The label of any economic poison which is highly toxic to man must also contain the skull and crossbones, and the word "poison" in red on a contrasting background and the antidote statement in immediate proximity thereto. The antidote statement shall include directions to call a physician immediately. The label of every economic poison, if necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals, must contain an appropriate warning or caution statement as required in § 162.9.

(b) *Name and address of manufacturer*. An unqualified name and address given on the label shall be considered as the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the economic poison was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for * * *" "Distributed by * * *," or "Sold by * * *" to show that the name is not that of the manufacturer. When a person manufactures an economic poison in two or more places or in a place different from the manufacturer's principal office, the actual place of manufacture of each particular package need not be stated on the label except when, under the special circumstances existing, the failure to name it may be misleading to the public. The address of the manufacturer, registrant or person for whom manufactured shall include the street address, if any, unless the street address is shown in a current city directory or telephone directory.

(c) *Name, brand or trademark of economic poison*. The name, brand or trademark of the economic poison appearing on the label shall be that under which the economic poison is registered.

(d) *Net content*. (1) The net content shall be exclusive of wrappers or other material, and shall be deemed to be average content unless stated as a minimum quantity.

(2) Net content shall be stated in the terms of weight or measure in general use by consumers and users of the economic poison to give accurate information as to the quantity of the economic poison. If there is no general use, the net content statement shall be in terms of liquid measure if the product is a liquid, and in terms of weight if it is a solid, semi-solid, viscous, or a mixture of liquid and solid. Statements of liquid measure shall be in terms of the United States gallon, quart, pint, and fluid ounce, at 68° F. The statements of weight shall be in terms of avoirdupois pound and ounce. All statements of net content shall be in terms of the largest unit present.

(3) If the contents are stated as a minimum quantity, variation below is not permissible and variation above shall not be unreasonably large.

(4) If the contents are not stated as a minimum quantity, variation shall be permitted only to the extent that it represents deviations unavoidable in good packing practice. The average quantity in the packages in a shipment shall not fall below the average quantity stated, nor shall there be any unreasonable variation from the average in the contents of any package.

§ 162.7 *Ingredient statement* — (a) *Location of ingredient statement*. The ingredient statement must appear on that part of the label displayed under customary conditions of purchase except in cases where the Director determines that, due to the size or form of the container a statement on that portion of the label is impractical, and permits such statement to appear on another side or panel of the label. When so permitted, the ingredient statement must be in larger type and more prominent than would otherwise be possible. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

(b) *Names of ingredients*. The well-known common name of the ingredient must be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the Director may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the Director may prescribe the terms under which it may be used. A trademark or trade name may not be used as the name of an ingredient except when it has become a common name.

(c) *Percentages of ingredients*. Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

(d) *Designation of ingredients*. (1) Active ingredients and inert ingredients shall be so designated, and the term "inert ingredients" shall appear in the same size type and be equally as prominent as the term "active ingredients."

(2) If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall, respectively, be shown

in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

(e) *Active ingredient content.* As long as an economic poison is subject to the act the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the economic poison.

§ 162.8 *Economic poisons highly toxic to man.* The Secretary hereby finds that economic poisons which fall within any of the following categories when tested on the laboratory animals, mice, rats and rabbits, are highly toxic to man or contain substances or quantities of substances highly toxic to man within the meaning of the act:

(a) *Oral toxicity.* Those which produce death in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

(b) *Toxicity on inhalation.* Those which produce death in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by man when the economic poison is used in any reasonably foreseeable manner.

(c) *Toxicity by skin absorption.* Those which produce death in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals.

Provided, however, That the Director may, upon application and after opportunity for hearing, exempt any economic poison which meets the above standard but which is not in fact highly toxic to man, from the requirements of the act and the regulations in this part with respect to economic poisons highly toxic to man.

§ 162.9 *Warning or caution statement.* The warning or caution statement, when necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals, must appear on the label in a place sufficiently prominent to warn the user, and must state clearly and in non-technical language the particular hazard involved in the use of the economic poison, e. g., ingestion, skin absorption, inhalation, inflammability or explosion, and the precautions to be taken to avoid accident, injury, or damage.

The word "Poison" in red on a contrasting background in immediate proximity to the skull and crossbones and an antidote, including directions to call a physician immediately shall appear on all economic poisons highly toxic to man.

§ 162.10 *Registration*—(a) *Eligibility.* Any manufacturer, packer, seller, distributor or shipper of an economic poison is eligible as a registrant and may register such economic poison.

(b) *Effect of registration.* If an economic poison is registered under the act no further registration under the act is required: *Provided,* That,

(1) The product is in the manufacturer's or registrant's original unbroken immediate container; and

(2) The claims made for it and the directions for its use do not differ in substance from the representations made in connection with registration.

(c) *Procedure for registration.* Applications for registration should be addressed to Insecticide Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Application forms will be furnished upon request. Applications should be submitted as far in advance as possible and at least 30 days before the time when it is desired that registration take effect. No fees are charged for registration.

(d) *Effective date of registration.* Registration of an economic poison shall become effective on the date the notice of registration is issued.

(e) *Responsibility of a registrant.* The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of an economic poison.

(f) *Changes in labeling or formulae.* (1) Changes in substance in the labeling or changes in the formula of a registered economic poison must be submitted in advance to the Insecticide Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. The registrant must describe the exact changes desired and the proposed effective date and, upon request, shall submit a description of tests which justify such changes.

(2) After the effective date of a change in labeling or formula the product shall be marketed only under the new claims or formula, except that a reasonable time may be permitted by the Director to dispose of properly labeled stocks of old products.

(g) *Claims must conform to registration.* Claims made for an economic poison must not differ in substance from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

§ 162.11 *Guarantee of economic poisons*—(a) *By whom given.* Any manufacturer, distributor, wholesaler, or other person residing in the United States may furnish to any person to whom he sells an economic poison a guarantee that the economic poison was lawfully registered at the time of sale and delivery to such person, and that the economic poison complies with all the requirements of the act and of the regulations in this part.

(b) *Reference to guarantee.* No reference to or suggestion that a guarantee of registration has been given shall be made in the labeling of any economic poison.

(c) *Contents of guarantee.* In order to afford effective protection, each guarantee must:

(1) Be signed by and contain the name and address of the person giving it; and

(2) State that the economic poison was lawfully registered at the time of sale and delivery and that it complies with all other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

(d) *Scope of guarantee.* A guarantee may be (1) limited to a specific shipment or other delivery of a product, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or (2) general and continuing, in which case, in its application to any shipment or other delivery of a product, it shall be considered to have been given at the date when such product was shipped or delivered by the person giving the guarantee.

(e) *Expiration of guarantee.* Any guarantee shall expire when the product is repacked or relabeled by the purchaser or when it becomes otherwise in violation of the act or the regulations in this part after shipment or other delivery by the person who gave such guarantee.

(f) *Forms of guarantee.* The following are suggested forms of guarantee:

(1) Limited form for use on invoice or bill of sale.

______________________ hereby guarantees
Name of guarantor
that the economic poison herein listed is lawfully registered with the Secretary of Agriculture and that the same complies with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

____
Signature and postoffice address of guarantor

____
Date

(2) General and continuing form.

The economic poisons comprising each shipment or other delivery hereafter made by ______________________, to or on the
Name of guarantor
order of ______________________________
Name and address of person receiving guarantee
are hereby guaranteed to be lawfully registered with the Secretary of Agriculture and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

____
Signature and postoffice address of guarantor

____
Date

§ 162.12 *Coloration and discoloration.* The white economic poisons hereinafter named shall be colored or discolored in accordance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland.

(a) *Coloring agent.* The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the regulations in this part during ordinary conditions of marketing or storage, and must not cause the product to be ineffective or result in its causing damage when used as directed.

(b) *Arsenicals and barium fluosilicate.* Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(c) *Sodium fluoride and sodium fluosilicate.* Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(d) *Exception.* Notwithstanding the provisions of paragraphs (b) and (c) of this section the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purpose and if such action will not be injurious to the public.

§ 162.13 *Adulteration; valuable constituent.* (a) A valuable constituent will be considered as wholly abstracted whenever the designation or representation of the product imports its presence therein and such constituent has been wholly omitted therefrom in the preparation of the product or has been wholly removed from the completed product.

(b) A valuable constituent will be considered as partly abstracted whenever the designation or representation of the product imports its presence therein, and such constituent is not present in the usual or customary amount or in the amount indicated in the labeling.

§ 162.14 *Misbranding* — (a) *False or misleading statements.* Among representations in the labeling of an economic poison which render it misbranded are the following:

(1) A false or misleading statement concerning composition of the product.

(2) A false or misleading statement concerning the effectiveness of the product as an economic poison or device.

(3) A false or misleading statement about the value of the product for purposes other than as an economic poison or device.

(4) A false or misleading comparison with other economic poisons or devices.

(5) A false or misleading representation as to the safety of the economic poison or of its ingredients including a statement such as "non-poisonous", "non-injurious" or "non-hazardous" unless the product is in fact safe under all conditions.

(6) Any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government.

(7) The name of an economic poison which contains two or more ingredients if it suggests the name of one or more but not all such ingredients, even though the names of the other ingredients are stated elsewhere in the labeling: *Provided, however* That it is permissible, when the percentage of each active ingredient is given in the name, to omit reference in the name to the inert ingredients.

(8) Prominent reference in the labeling to one or more active ingredients without giving their percentages in immediate proximity thereto or without giving equal prominence to the other active ingredients or to the presence of inert ingredients.

(9) A true statement used in such a way as to give a false or misleading impression to the purchaser.

(b) *Justification of false and misleading statements not permitted.* (1) The use of any false or misleading statement on any part of the labeling, given as the statement or opinion of any person or based upon such statement or opinion shall not be justified, nor may such statement be justified by the fact that the statement or opinion is actually that of such person.

(2) The use of a false or misleading statement in the labeling cannot be justified by an explanatory statement.

§ 162.15 *Enforcement*—(a) *Collection of samples.* Samples of economic poisons and devices shall be collected by official investigators or by any employee of the Federal Government, or of a State, territory, or political subdivision who has been duly designated by the Director.

(b) *Examination of samples.* Methods of examination of samples shall be those adopted and published by the Association of Official Agricultural Chemists, where applicable, and such other methods as may be necessary to determine whether the product complies with the law.

(c) *Notice of apparent violation.* (1) If from an examination or analysis an economic poison or device appears to be in violation of the act, a notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him an opportunity to offer such written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the act and the regulations.

(2) Any such person may, in addition to his reply to such notice, file within 20 days of its receipt a written request for an opportunity to present his views orally in connection therewith.

(3) No notice or hearing shall be required prior to the seizure of any economic poison or device.

§ 162.16 *Notice of judgment.* Publication of judgments of the courts in cases arising under the criminal or seizure provisions of the act shall be made in the form of notices, circulars, or bulletins as the Director may direct.

§ 162.17 *Shipments for experimental use*—(a) *Articles for which no permit is required.* (1) A substance or mixture of substances being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and where the user does not expect to receive any benefit in pest control from its use is not considered an economic poison within the meaning of section 2a of the act and § 162.2 (c) Therefore, no permit under the act is required for its shipment.

(2) An economic poison shipped or delivered for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the act and the regulations in this part.

(b) *Articles for which permit is required.* (1) An economic poison shipped or delivered for experimental use by other qualified persons but not under the supervision of a Federal or State agency authorized by law to conduct research in the field of economic poisons, shall be exempt from the provisions of the act and of the regulations in this part: *Provided,* That a permit for such shipment or delivery is obtained prior thereto. Permits will be of two types, specific and general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to different persons.

(2) All applications for permits covering shipments for experimental use must be signed by the shipper or person making delivery and must contain the following:

(i) Name and address of shipper and place or places from which shipment will be made.

(ii) Proposed date of shipment or proposed shipping period not to exceed one year.

(iii) Identification of material to be covered by permit which should apply to a single material or group of closely allied materials.

(iv) Approximate quantity to be shipped and types of tests such as greenhouse, orchard, or field.

(v) A signed statement whether the product is sold or is delivered without cost.

(vi) A signed statement that the economic poison is intended for experimental use only.

(vii) Proposed labeling which, in addition to other statements, must state that the product is for experimental use only.

(c) *Cancellation of permits.* Any permit for shipment for experimental use may be cancelled at any time for any violation of the terms thereof.

§ 162.18 *Exemption.* An economic poison specified in § 162.12 which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a mothproofing agent, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric, shall be exempt from the requirements of section 3 (a) (4) of the act and § 162.12.

The regulations in this part shall become effective thirty days after publication thereof in the FEDERAL REGISTER.

Issued this 26th day of September 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-8833; Filed, Oct. 1, 1947; 8:45 a. m.]

Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

[Rev. Quarantine 70]

PART 319—FOREIGN QUARANTINE NOTICES

SUBPART—DUTCH ELM DISEASE QUARANTINE

Introductory note. Discovery of the Dutch elm disease in the Province of Quebec, Canada has necessitated extension of the quarantine on account of this disease to include the Dominion of Canada and other foreign areas north of the United States. Surveys of elm utilization in the United States disclosed that elm logs are annually shipped to certain localities in this country from Canadian points, principally for use in veneer manufacturing. Such unrestricted importations constitute an additional threat to the elms in the extensive sections of the United States where the disease does not occur.

Importations of elm material from the continent of Europe have been prohibited or restricted since October 21, 1933.

In regulations supplemental to the revised quarantine, provisions are made for the importation of quarantined products under certain precautions to prevent introduction of the disease fungus.

Notice of determination of the Secretary of Agriculture. The Secretary of Agriculture has determined that it is necessary further to revise the Dutch elm disease quarantine which was last revised December 20, 1934, effective January 1, 1935 (7 CFR 319.70) in order to extend the quarantined area to include the Dominion of Canada and other foreign areas north of the United States, and to issue regulations supplemental to the revised quarantine to allow the importation under prescribed conditions of certain quarantined products. The quarantine is therefore hereby revised as follows and the following regulations established:

QUARANTINE

Sec.
319.70 Notice of quarantine.

RULES AND REGULATIONS

319.70-1 Definitions.
319.70-2 Conditions governing the entry of elm and related plants from Europe.
319.70-3 Conditions governing the entry of elm and related plants from Canada and other foreign areas north of the United States.
319.70-4 Procedure for obtaining permits.
319.70-5 Notice of arrival.
319.70-6 Shipments for experimental or scientific purposes.

AUTHORITY: §§ 319.70 to 319.70-6, inclusive, issued under secs. 5 and 7 of the Plant Quarantine Act, Aug. 20, 1912, 37 Stat. 316 and 317; 7 U. S .C. 159 and 160.

QUARANTINE

§ 319.70 *Notice of quarantine.* The Secretary of Agriculture, having given the public hearing required by law, has determined that an injurious plant disease known as the Dutch elm disease, caused by the fungus Ceratostomella ulmi Buisman (Graphium ulmi Schwarz), not heretofore widely prevalent or distributed within and throughout the United States, exists in various countries of the continent of Europe as well as certain foreign areas north of the United States. Therefore, pursuant to the provisions of the Plant Quarantine Act of August 20, 1912 (37 Stat. 316 and 317; 7 U. S. C. 159 and 160) the Secretary of Agriculture forbids the importation into the United States from the continent of Europe, and the Dominion of Canada and other foreign areas north of the United States, including Newfoundland, Labrador, St. Pierre, Miquelon and islands adjacent thereto of (a) seeds, leaves, plants, cuttings, and scions of elm and related plants; (b) logs of elm and related plants; (c) lumber, timber, and veneer of such plants if bark is present on them; and (d) crates, boxes, barrels, packing cases, and other containers, and other articles manufactured in whole or in part of the wood of elm or related plants, if such wood is not free from bark, except as provided in the regulations supplemental to this quarantine.

RULES AND REGULATIONS

§ 319.70-1 *Definitions.* For the purposes of the regulations in this part, the following words, names, and terms shall be construed respectively, to mean:

(a) *Dutch elm disease.* The fungus disease of elms caused by Ceratostomella ulmi Buisman (Graphium ulmi Schwarz) in any stage of development.

(b) *Elm and related plants.* Plants of the botanical family Ulmaceae, comprising all species of the following genera: Ampelocera, Aphananthe, Barbeya, Celtis, Chaetachne, Chaetoptelca, Gironniera, Holoptelea, Lozanella, Parasponia, Phyllostylon, Planera, Pteroceltis, Trema, Ulmus and Zelkova.

(c) *Certificate of origin.* A certificate issued and signed by an authorized governmental official of the country of origin stating that the products in the shipment were grown in a country, territory, or province where the Dutch elm disease is not known to occur.

(d) *Inspector* An inspector of the United States Department of Agriculture.

§ 319.70-2 *Conditions governing the entry of elm and related plants from Europe.* (a) Products designated in § 319.70 may not be imported into the United States from the Continent of Europe: *Provided, however* That under unusual circumstances an exception to this prohibition may be authorized by the Secretary of Agriculture for entry of such products under permit, under such conditions and regulations as he may prescribe, or when the particular products have been or are to be so treated, prepared, or processed that, in his judgment, their entry involves no risk of pest introduction.

§ 319.70-3 *Conditions governing the entry of elm and related plants from Canada and other foreign areas north of the United States.* (a) Products designated in § 319.70 (other than seeds) may not be imported into the United States from the Province of Quebec, Canada.

(b) Logs, lumber, and any other parts of elm and related plants incapable of propagation may be imported into the United States under permit issued in accordance with § 319.70-4 and notice of arrival executed in accordance with § 319.70-5 when they have originated in either the Dominion of Canada (other than the Province of Quebec) or the other foreign areas north of the United States designated in § 319.70. Permit and notice of arrival requirements for such importations may be waived by the inspector when the products are accompanied by a certificate of origin.

(c) Clean seeds from any of the designated foreign areas north of the United States and other propagative materials of elm and related plants from these same areas (other than the Province of Quebec) are hereby exempted from the provisions of § 319.70. Admission of these products, however, is subject to the provisions of the Nursery Stock, Plant, and Seed Quarantine, No. 37 (7 CFR 319.37 (B. E. P Q.-Q. 37))

§ 319.70-4 *Procedure for obtaining permits.* Persons desiring to import products of elm or related plants incapable of propagation, the entry of which is regulated by the regulations in this part, shall submit to the Bureau of Entomology and Plant Quarantine an application[1] stating the name and address of the importer, the country, and, in the case of Canada, the province, from which the material is to be imported, the approximate quantity of the commodity for which a permit is desired, and the proposed United States port of entry. Upon receipt and approval of such application by the Bureau of Entomology and Plant Quarantine, a permit will be issued authorizing the importation and specifying the authorized port of entry and the pertinent conditions and requirements for entry.

§ 319.70-5 *Notice of arrival.* Immediately upon the arrival at a port of entry of any material, the entry of which is permissible only under permit, the permittee shall submit to the Bureau of Entomology and Plant Quarantine, through the Collector of Customs, duplicate copies of a notice of arrival. Forms for this purpose are available from either the Bureau of Entomology and Plant Quarantine or the Collector of Customs.

§ 319.70-6 *Shipments for experimental or scientific purposes.* Articles governed by § 319.70 may be imported for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and restrictions as the Chief of the Bureau of Entomology and Plant Quarantine may prescribe.

This quarantine and the regulations in this part shall be effective on and after October 31, 1947.

Done at the city of Washington this 26th day of September 1947.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] CLINTON P ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-8890; Filed, Oct. 1, 1947; 8:45 a. m.]

[1] Address applications to Import and Permit Section, Bureau of Entomology and Plant Quarantine, 209 River Street, Hoboken, New Jersey.

TITLE 10—ARMY WAR DEPARTMENT

Chapter III—Claims and Accounts

PART 306—CLAIMS AGAINST THE UNITED STATES

MILITARY PAYMENT CERTIFICATES

Sections 306.80 and 306.81 are hereby rescinded and the following §§ 306.80 to 306.83, inclusive, substituted in lieu thereof:

Sec.
306.80 Military payment certificates.
306.81 Definitions.
306.82 Use of military payment certificates.
306.83 Conversion and exchange.

AUTHORITY: §§ 306.80 to 306.83, inclusive, issued under sec. 3, 58 Stat. 921; 50 U. S. C. 1705–1707.

§ 306.80 *Military payment certificates*—(a) *Use.* In such areas as the War Department designates, disbursing officers of the United States Army and their agents are authorized to disburse military payment certificates for pay and allowances of authorized personnel, and for all other authorized payments to individuals in and under the Military Establishment.

(1) *Areas.*

Austria.	Japan and outlying Islands.
Belgium.	Korea, South of 38° North Latitude.
Denmark.	Luxemburg.
France.	Ryukus Islands.
Germany.	Switzerland.
Great Britain (England).	Yugoslavia (Trieste).
Holland.	
Italy.	

(b) *Convertibility.* Disbursing officers of the United States Army and their agents are authorized to exchange dollar instruments for military payment certificates, or military payment certificates for dollar instruments, for persons authorized to be in possession of military payment certificates, in accordance with prescribed regulations.

(c) *Transactions between Army disbursing officers and disbursing officers of other agencies.* Disbursing officers of the United States Army and their agents are authorized to exchange dollar instruments for military payment certificates, or military payment certificates for dollar instruments, in transactions with disbursing officers of the United States Navy and their agents; and with such other disbursing officers of the United States Government and their agents as may be authorized specifically by theater commanders.

(d) *Applicability of regulations.* As of the date on which the War Department introduces the use of military payment certificates in any area, transactions in the foreign currencies of such areas, and in any other currencies, will be subject to the regulations specified herein.

(e) *Acquisition of certain foreign currencies.* Disbursing officers of the United States Army and their agents, wherever stationed, will not acquire any foreign currencies except the Philippine peso (as specifically authorized) or as authorized in section II, WD Circular 136, 1947.

(f) *Sales of foreign currencies.* Disbursing officers of the United States Army or their agents, wherever stationed, are authorized to sell foreign currencies, including foreign currencies of areas in which military payment certificates are in use, and any other designated currencies, for military payment certificates and/or for United States dollar instruments, to military and naval personnel of the United States Government; and to employees of Government and non-Government agencies as specifically authorized by the theater commander.

§ 306.81 *Definitions*—(a) *United States authorized personnel.* Personnel who fall within the purview of §§ 306.80 to 306.83, inclusive (hereinafter referred to as United States authorized personnel) and who may utilize military payment certificates and dollar instruments defined herein, subject to limitations prescribed in § 306.82 (b), are:

(1) Military and naval personnel of the United States Government.

(2) Civilians, who are citizens of the United States, employed directly, or indirectly through contractors, by the military and naval establishments.

(3) Civilians, who are citizens of the United States, employed directly by the United States Government, when authorized by the theater commander.

(4) Dependents of personnel included in subparagraphs (1) (2), and (3) of this paragraph but subject to the limitations set forth in § 306.82 (b).

(5) Civilians, other than those who are citizens of the country whose currency is legal tender in the area, directly employed by the military and naval establishments, when authorized by the theater commander.

(6) Civilians, other than those who are citizens of the country whose currency is legal tender in the area, who are employed by quasiofficial organizations in and/or under the military and naval establishments and working for the benefit of the members of the Armed Forces of the United States, when authorized by the theater commander. Examples are the Army Exchange Service and its exchanges; United Service Organizations; American Red Cross Clubs and facilities; unit clubs; enlisted men's and Officers' clubs and messes; and the Central Welfare Fund of any given theater.

(7) Personnel attached to the headquarters of any United States military or naval unit, who, in the opinion of the theater commander, can best perform their mission by having access to United States Army facilities, when specifically authorized by the theater commander.

Enemy nationals are specifically excluded from those listed in paragraphs (a) (5) (6) and (7) of this section.

The theater commander will be responsible for the determination of those individuals to which the provisions of these regulations will apply within the limits of this paragraph.

(b) *Military payment certificate.* (1) the military payment certificate is defined as an instrument, denominated in United States dollars or fractions thereof which is the official medium of exchange in all military establishments in areas designated by the War Department.

(i) Military payment certificates are issued in denominations of 5 cents, 10 cents, 25 cents, 50 cents, $1, $5, and $10.

(c) *United States dollar instruments.* United States dollar instruments are defined as follows:

(1) United States dollar currency is the currency or coin accepted as legal tender in the United States.

(2) United States Treasury checks are the standard dollar checks drawn on the Treasurer of the United States by authorized disbursing officers of the United States.

(3) Travelers' checks and money orders issued by the American Express Company and travelers' checks issued by the Bank of America National Trust and Savings Association, the Mellon National Bank of Pittsburgh, and the National City Bank of New York, when such checks are countersigned in the presence of the disbursing officer, or his agent.

(4) United States Military Disbursing Officers' Payment Order.

(5) United States postal money orders and American Express Company money orders.

§ 306.82 *Use of military payment certificates*—(a) *Medium of exchange.* In areas where the War Department has designated military payment certificates as the medium of exchange within the military establishment, military payment certificates are the only authorized medium of exchange in:

(1) All United States Army and Navy sales and services installations and activities.

(2) Theater, moving picture, and other entertainment facilities, operated by the military establishment.

(3) Officers' and enlisted men's messes and clubs, including American Red Cross installations.

(4) Contributions for all charitable purposes, including all authorized charitable appeals, church collections and chaplain's funds, wherever ultimate remittance to the United States through United States Army channels is involved.

(5) Payments to all travel agencies, radio, cable, telegraph, and telephone companies, and all other facilities of similar types, wherever ultimate remittance to the United States through United States Army channels is involved.

(6) Sale of stamps and other postal services at United States Army and Navy postal installations.

(7) All other official agencies, quasiofficial and private agencies of or working in behalf of United States Armed Forces providing goods, services and facilities to members of United States Armed Forces.

(b) *Limitations.* (1) The military payment certificate is for use only in the United States military establishments by United States authorized personnel, in accordance with applicable rules and regulations.

(2) Possession and/or use of military payment certificates is prohibited unless acquired in accordance with prescribed regulations, and such additional restrictions as may be promulgated by the appropriate theater commander.

(3) Military payment certificates may be acquired, possessed, and used by authorized personnel incident to normal legitimate transactions within the Military establishment, not in violation of articles of war, War Department and theater directive.

(4) Under no circumstances will authorized personnel or disbursing officers accept military payment certificates from, transfer military payment certificates to, or exchange military payment certificates for persons other than authorized personnel, or accept or exchange military payment certificates after the date designated by the Secretary of War for their acceptance or exchange.

(5) The use or possession of United States currency is prohibited in foreign countries except where authorized.

(6) Military payment certificates will not be transmitted through the mails by individuals for payment of personal obligations. Individuals desiring to transmit funds will use any of the methods currently provided for such transmission.

§ 306.83 *Conversion and exchange*—(a) *Conversion of military payment certificates into dollar instruments or foreign currency.* Under the conditions set forth below, United States authorized personnel may exchange military payment certificates, in amounts legitimately in their possession, for the following dollar instruments or foreign currencies:

(1) *United States dollar currency or coin.* (i) Upon departure for the United States.

(ii) Upon departure for or arrival in areas where United States dollar currency has been determined by the War Department to be used, consistent with local foreign exchange control regulations.

(2) *United States Treasury checks.* When traveling under competent orders to any area in which United States Army disbursing officers and class B agent officers and military attaché disbursing officers are not readily available.

(3) *United States postal money orders.* Issued in accordance with regulations of the United States Post Office Department, by United States Army postal officers or their agents.

(4) *United States Savings Bonds.*

(5) *Soldiers' deposits.*

(6) *Military payment orders.*

(7) *Authorized foreign currency.* Disbursing officers and their agents will convert military payment certificates and/or authorized United States dollar instruments into authorized foreign currency for the accommodation of United States authorized personnel designated in § 306.81. The rate of exchange to be used will be the rate of exchange at which the local currency was obtained.

(b) *Conversion of dollar instruments into military payment certificates.* Authorized personnel may exchange the following types of dollar instruments, only if acquired and held in accordance with existing regulations, into military payment certificates:

(1) United States postal and American Express Company money orders.

(2) United States Treasury checks.

(3) United States dollar travelers' checks as specified in § 306.81 (c) (3).

(4) United States dollar currency and/or coin.

(5) United States Military Disbursing Officers' Payment Orders.

(c) *Conversion of foreign currency into military payment certificates or dollar instruments, etc., not authorized.* Disbursing officers or their agents will not exchange or convert any foreign currency and/or coin except the Philippine peso for or into military payment certificates, dollar instruments, or any other instrument denominated in dollars, or exchange one foreign currency for another foreign currency, for the accommodation of United States authorized personnel, except by specific authority of the Secretary of War.

(d) *Postal officers.* (1) United States Army postal officers or their agents will, in accordance with regulations of the United States Post Office Department and of the theater commander, issue or cash United States Postal money orders and sell stamps in exchange for military payment certificates.

(2) United States Army postal officers or their agents will effect no transactions in foreign currency and/or coin except the Philippine peso.

(e) *Other Army facilities.* (1) No foreign currency or coin except the Philippine peso will be accepted in any of the facilities listed in § 306.82 (a) Acceptance of United States currency and coin in such facilities will be limited exclusively to those areas in which individuals in and under the military establishment are paid in United States currency.

(2) Revenue passengers of the Air Transport Command may purchase meals at ATC "snack bars" and transient messes only with dollars, dollar instruments or military payment certificates, if authorized to possess the latter.

[WD Cir. 247, Sept. 6, 1947]

[SEAL] EDWARD F WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-8898; Filed, Oct. 1, 1947; 8:50 a. m.]

PART 307—CLAIMS ON BEHALF OF THE UNITED STATES

MISCELLANEOUS AMENDMENTS

Amend Part 307, Chapter III, Code of Federal Regulations in the following respects:

1. In § 307.3 amend paragraph (a) to read as set forth below· in paragraph (b) (1) of the same section insert the words "and naval" immediately following the word "military"

§ 307.3 *Definitions.* * * *

(a) *Claim.* The right of the United States to demand from a defendant reimbursement for damage to or loss or destruction of Government property.

(b) *Defendant.* (1) Any individual, excluding military and naval personnel * * *

2. Rescind §§ 307.4 and 307.5 and substitute the following:

§ 307.4 *Scope.* Included within the provisions of the regulations in §§ 307.3 to 307.5, are claims in excess of $25, and claims in lesser amount when the assertion thereof is deemed in the interest of the Government for:

(a) Damage to or loss or destruction of Government property.

(b) Expense or loss to the Government, incurred in other cases, arising from negligence or wrongful act, where the Government's obligation is fixed by common law, Federal or state statute, convention, treaty, or agreement.

§ 307.5 *Action by reviewing authorities.* Upon receipt by the Army or air materiel commander, or by an office of the command claims service, each claims officer's report will, unless the report is accompanied by a statement that payment in full has been made, be reviewed and, after any corrective action deemed necessary with relation thereto, appropriate administrative action will be taken. Such action, unless the claims officer's report is accompanied by a statement that payment in full has been made or by a compromise offer which such reviewing authority deems it advisable to accept, will include a determination whether the defendant is legally liable to the United States and, if so, the amount of such liability. Upon a determination that the defendant is liable and of the amount of such liability, the Army or air matériel commander, or the chief of the command claims service, will, unless a demand in the same amount has already been made, cause a written demand to be made upon the defendant for payment of the claim. If such demand is complied with, the certified check or money order made payable to the Treasurer of the United States will be accepted and transmitted to the nearest disbursing officer. If the defendant fails to comply with the demand within a reasonable time, and the amount involved, the financial responsibility of the defendant, and other circumstances of the case appear to make advisable the institution of suit, or if the defendant has already made, or on such demand makes, a compromise offer accompanied by a certified check or money order made payable to the Treasurer of the United States, the Army or air matériel commander, or the chief of the command claims service (who will first, however, in cases involving the transmission of foreign funds, convert the tendered check or money order into a United States Treasury check) will forward the original and one copy of the file, including any compromise offer and certified check or money order made payable to the Treasurer of the United States, with his recommendation as to the advisability of acceptance of such compromise offer, if any, or, if none, as to the advisability of instituting suit, to The Judge Advocate General, Washington 25, D. C., for appropriate administrative action.

[AR 25-220, Sept. 15, 1947] (R. S. 161, 5 U. S. C. 22)

[SEAL] EDWARD F WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-8900; Filed, Oct. 1, 1947; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 940]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

SCOTCH WOOLEN MILLS

§ 3.6 (a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer or seller—Manufacturer—As maker of raw material also, or other products not made:* § 3.6 (a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Stock, product or service:* § 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (cc) *Advertising falsely or misleadingly—Source or origin—Place—Domestic product as imported:* § 3.96 (b) *Using misleading name—Vendor—Producer or laboratory status of dealer or seller—Manufacturer as maker of raw material also:* § 3.96 (b) *Using misleading name—Vendor—Products.* In connection with the offering for sale, sale, and distribution of articles of clothing and like merchandise in commerce, (1) Using the word "Mills" or any other word or words of similar import or meaning, in its corporate or trade name or to designate, describe, or refer to its business; or representing or implying in any manner that it manufactures the cloth used in the articles of clothing sold or offered for sale by it; or representing or implying in any manner that it owns, operates, or controls any mills or manufacturing establishment in which the cloth used in said articles of clothing is produced; or (2) representing or implying in any manner that articles of clothing or materials therein which are not of Scotch origin are of Scotch origin; prohibited, subject to the provision, however, that such order shall not be deemed to prohibit the respondent from using "Scotch Tailors, Inc." as its corporate name, provided that in immediate conjunction therewith, in prominent type, upon each article of clothing manufactured by respondent, and in all advertising matter of whatever nature referring directly or indirectly to said articles of clothing, there is connected with said corporate name a clear and conspicuous disclosure through use of the words "Made in the U. S. A." or otherwise, that the said articles of clothing, and woolen materials therein, are made in the United States; and to the further provision that, if the corporate name Scotch Tailors, Inc., is used by respondent, nothing herein contained shall prohibit respondent from using in connection therewith the slogan "Formerly Scotch Woolen Mills" for a period of two years from the date of entry of this modified order, nor from using in the transaction of its business such stationery, envelopes, checks, order books, sample lines, labels, invoices, printed matter and supplies bearing the name "Scotch Woolen Mills" which it may now have on hand or on order, until such items are exhausted, but not longer than eighteen months from the date of entry of this modified order; and that respondent may use such items and such slogan accordingly and for said respective periods of time. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45) [Modified cease and desist order, Scotch Woolen Mills, Docket 940, August 29, 1947]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of August A. D. 1947.

This matter having heretofore been heard by the Federal Trade Commission, and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated May 1, 1945; and

It appearing that a petition to review and set aside said order was filed by the respondent on June 22, 1945, in the United States Circuit Court of Appeals for the Seventh Circuit, and that thereafter the Commission certified and filed in said Court a transcript of the entire record in this proceeding; and

It appearing that on August 1, 1947, counsel for respondent and the Commission entered into a stipulation, which was filed in this proceeding in said Court, providing, among other things, that respondent will dismiss its petition to review, and that immediately thereafter the Commission will enter herein its modified order to cease and desist embodying the terms of said stipulation; and

It appearing that, on motion of counsel for respondent, the United States Circuit Court of Appeals for the Seventh Circuit, on August 15, 1947, dismissed the petition to review and ordered that the cease and desist order entered in this cause on May 1, 1945, by the Federal Trade Commission be modified in accordance with the aforesaid stipulation;

And the Commission, having further considered said matter and the record herein and being fully advised in the premises, now issues this its modified order to cease and desist:

It is ordered, That respondent Scotch Woolen Mills, a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of articles of clothing and like merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Mills," or any other word or words of similar import or meaning, in its corporate or trade name or to designate, describe, or refer to its business; or representing or implying in any manner that it manufactures the cloth used in the articles of clothing sold or offered for sale by it; or representing or implying in any manner that it owns, operates, or controls any mills or manufacturing establishment in which the cloth used in said articles of clothing is produced.

2. Representing or implying in any manner that articles of clothing or materials therein which are not of Scotch origin are of Scotch origin; *Provided, however,* That this shall not be deemed to prohibit the respondent from using "Scotch Tailors, Inc." as its corporate name; *Provided further,* That in immediate conjunction therewith, in prominent type, upon each article of clothing manufactured by respondent, and in all advertising matter of whatever nature referring directly or indirectly to said articles of clothing, there is connected with said corporate name a clear and conspicuous disclosure through use of the words "Made in the U. S. A." or otherwise, that the said articles of clothing, and woolen materials therein, are made in the United States.

Provided further, however, That, if the corporate name Scotch Tailors, Inc., is used by respondent, nothing herein contained shall prohibit respondent from using in connection therewith the slogan "Formerly Scotch Woolen Mills" for a period of two years from the date of entry of this modified order, nor from using in the transaction of its business such stationery, envelopes, checks, order books, sample lines, labels, invoices, printed matter and supplies bearing the name "Scotch Woolen Mills" which it may now have on hand or on order, until such items are exhausted, but not longer than eighteen months from the date of entry of this modified order; and respondent may use such items and such slogan accordingly and for said respective periods of time.

It is further ordered, That respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 47-8894; Filed, Oct. 1, 1947; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

PART 16—LIQUIDATION OF DUTIES

COUNTERVAILING DUTIES; CORK AND CORK MANUFACTURES FROM SPAIN

CROSS REFERENCE: For an addition to the tabulation contained in § 16.24, see Treasury Decision 51757 under Treasury Department, Bureau of Customs, in the Notices section, *infra,* concerning countervailing duties to be imposed upon exportation of cork and cork manufactures from Spain.

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 103.52]

PART 61—VISAS: DOCUMENTARY REQUIREMENTS FOR ALIENS ENTERING THE UNITED STATES

PETITION BY CITIZEN RESIDING ABROAD

AUGUST 11, 1947.

Pursuant to the authority contained in R. S. 161 (5 U. S. C. 22) and in conformity with section 24 of the Immigration Act of 1924 (43 Stat. 166; 8 U. S. C. 222) Title 22, Part 61, § 61.311 (c) of the Code of Federal Regulations (Departmental Regulation 108.12; 11 F R. 8904) is hereby rescinded.

This regulation shall become effective immediately upon publication in the FEDERAL REGISTER.

Approved:

G. C. MARSHALL,
Secretary of State.

Concurred in by:

DOUGLAS W MCGREGOR,
Acting Attorney General.

AUGUST 11, 1947.

[F. R. Doc. 47-8889; Filed, Oct. 1, 1947; 8:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, War Department

PART 202—ANCHORAGE REGULATIONS

NECHES RIVER NEAR BEAUMONT, TEXAS

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U. S. C. 471) anchorage grounds are hereby established in old Neches River channel near Beaumont, Texas, for vessels of the United States Maritime Commission. The following § 202.67 in relation thereto is hereby prescribed:

§ 202.67 *Neches River near Beaumont, Texas*—(a) *Anchorage grounds.* (1) The old Neches River channel northerly of the Smith Bluff Cutoff, excluding those waters within 1,000 feet of the near bottom edge of the Sabine-Neches Waterway.

(2) The old Neches River channel northerly of the McFaddin Bend Cutoff, including the area between the McFaddin Bend Cutoff and the old Neches River channel dredged by the United States Maritime Commission, and excluding those waters within 500 feet of the near bottom edge of the Sabine-Neches Waterway.

(b) *Regulations.* (1) All vessels and other watercraft, except such as are authorized by the United States Maritime Commission, shall keep clear of the anchorage grounds at all times.

(2) These regulations shall be enforced by the United States Maritime Commission, Washington, D. C., and such agencies as it may designate. [Regs. Sept. 8, 1947, CE 813.3 (Neches River, Texas)—ENGWR] (38 Stat. 1053; 33 U. S. C. 471)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-8899; Filed, Oct. 1, 1947; 8:50 a. m.]

TITLE 36—PARKS AND FORESTS

Chapter II—Forest Service, Department of Agriculture

PART 201—NATIONAL FORESTS

TAHOE NATIONAL FOREST

CROSS REFERENCE: For order affecting the tabulation contained in § 201.1, see Misc. 2110960 under Department of the Interior, Bureau of Land Management, in the Notices section, *infra,* concerning certain lands within the Tahoe National Forest.

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 21—INTERNATIONAL POSTAL SERVICE

SERVICE TO FOREIGN COUNTRIES; INCREASED MAIL SERVICE TO GERMANY

The regulations under the country "Germany" (39 CFR, Part 21, Subpart B—Service to foreign countries; alphabetical list) as amended, are further amended as follows:

1. Delete the first sentence of paragraph (a) (12 FR 1604, 3303, and 3974) and insert in lieu thereof the following:

Restricted resumption of mail service to all of Germany. (a) Ordinary letters weighing not in excess of four pounds six ounces are acceptable for transmission to Germany. Merchandise in letter packages is limited to that sent as gifts. Post cards, not of a fascist or subversive character, and non-illustrated post cards may also be sent. * * *

2. Add a new final sentence to paragraph (a) reading as follows: "Commercial papers and samples of merchandise may be sent under the conditions specified in § 21.6 and § 21.8, respectively."

(R. S. 161, 396, 398; secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 372, 369)

[SEAL] ROBERT E. HANNEGAN,
Postmaster General.

[F. R. Doc. 47-8882; Filed, Oct. 1, 1947; 8:50 a. m.]

PART 21—INTERNATIONAL POSTAL SERVICE

SERVICE TO FOREIGN COUNTRIES; INCREASED INDEMNITY FOR INSURED PARCELS FOR GREAT BRITAIN AND NORTHERN IRELAND

Effective October 1, 1947, the regulations under the Country "Great Britain and Northern Ireland" (39 CFR 21, Subpart B) as amended (12 F R. 5043) are further amended by changing the second sentence under the item "*Insurance*" to read as follows:

Only parcels mailed in continental United States (not including Alaska) may be insured for the following amounts:

Limit of indemnity:	Fees
From $100.01 to $200	$0.60
From $200.01 to $300	.65
From $300.01 to $400	70
From $400.01 to $500	75
From $500.01 to $600	.80
From $600.01 to $700	.85
From $700.01 to $800	.90
From $800.01 to $900	.95
From $900.01 to $1,000	1.00

(R. S. 398, 48 Stat. 943, R. S. 161, 396, secs. 304, 309, 42 Stat. 24; 5 U. S. C. 372, 22, 369)

[SEAL] ROBERT E. HANNEGAN,
Postmaster General.

[F. R. Doc. 47-8881; Filed, Oct. 1, 1947; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 397]

WASHINGTON

REVOKING PUBLIC LAND ORDER NO. 241 OF AUGUST 1, 1944, WITHDRAWING PUBLIC LANDS FOR USE OF NAVY DEPARTMENT AS AN AERIAL GUNNERY RANGE

Correction

In Federal Register Document 47-8009, appearing in the issue of August 28, 1947, the land description under "T. 5 N., R. 25 E.," at the bottom of the first column of page 5780 is an error, as follows: Section 16 was inadvertently omitted and Section 19 appears in incorrect form. The description, as corrected, reads as follows:

T. 5 N., R. 25 E.,
Secs. 1 to 11, inclusive;
Sec. 12, N½, N½SW¼, SW¼SW¼ and NW¼SE¼,
Sec. 14, N½NW¼,
Sec. 15, N½NE¼, SW¼NE¼, NW¼ and NW¼SW¼,
Sec. 16, N½, SW¼ and N½SE¼,
Secs. 17 and 18;
Sec. 19, lots 1, 2, and 3, NE¼, E½NW¼ and NE¼SW¼,
Sec. 20, NW¼NE¼, N½NW¼ and SW¼NW¼.

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[4th Rev. S. O. 180, Amdt. 17]

PART 95—CAR SERVICE

DEMURRAGE ON REFRIGERATOR CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 24th day of September A. D. 1947.

Upon further consideration of Fourth Revised Service Order No. 180 (10 F R. 14970) as amended (11 F R. 1627, 1991, 3605, 4038, 6983, 9453, 10092, 11707, 12395, 12 F. R. 1421, 3032, 3672, 4269, 4720, 5733), and good cause appearing therefor: *It is ordered,* That:

Fourth Revised Service Order No. 180, (49 CFR 95.330), as amended, be, and it is hereby, further amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This section shall expire at 7:00 a. m., January 31, 1948, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, That this amendment shall become effective at 12:01 a. m., October 1, 1947; that a copy of this order and direction be served upon each State railroad regulatory body, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 47-8896; Filed, Oct. 1, 1947; 8:51 a. m.]

[Rev. S. O. 188, Amdt. 18]

PART 95—CAR SERVICE

REFRIGERATOR CAR DEMURRAGE ON STATE BELT RAILROAD OF CALIFORNIA

At a session of the Interstate Commerce Commission, Division 3; held at its office in Washington, D. C., on the 24th day of September A. D. 1947.

Upon further consideration of Revised Service Order No. 188 (10 F. R. 15175) as amended (11 F. R. 1626, 1992, 3605, 4038, 7043, 9453, 10092; 12 F. R. 1420, 3033, 3672, 3673, 4269, 4720, 5734) and good cause appearing therefor: *It is ordered*, That:

Revised Service Order No. 188 (49 CFR 95.334), as amended, be, and it is hereby, further amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date*. This section shall expire at 7:00 a. m., January 31, 1948, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, That this amendment shall become effective at 12:01 a. m., October 1, 1947, that a copy of this order and direction be served upon the California State Railroad Commission and upon the State Belt Railroad of California; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 47-8895; Filed, Oct. 1, 1947; 8:51 a. m.]

PROPOSED RULE MAKING

TREASURY DEPARTMENT

Bureau of Customs

[19 CFR, Part 16]

[334.11]

SCHEDULE TARE FOR INEDIBLE BUT NOT READILY REMOVABLE COVERINGS ON CHEESE

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

Notice is hereby given that, pursuant to authority contained in section 507 of the Tariff Act of 1930 (19 U. S. C. 1507) it is proposed to amend § 16.6 (c), Customs Regulations of 1943 (19 CFR, Cum. Supp., 16.6 (c)) to provide the following schedule tare for cheese with inedible, but not readily removable, coverings:

Asiago, Cremonese, Parmesan, Parmiggiano, Reggiano, Reggianito, and Trabolgiano, 1 percent; Cotrone, Moliterno, Moliterno type, and Palmese, 2 percent; all others, 2½ percent.

This notice is published pursuant to section 4 of the Administrative Procedure Act (Public Law 404, 79th Cong.) Data, views, or arguments with respect to the proposed amendment may be addressed to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., in writing. To assure consideration of such communications, they must be received in the Bureau of Customs not later than 20 days from the date of the publication of this notice in the FEDERAL REGISTER.

[SEAL] A. L. M. WIGGINS, *Acting Secretary of the Treasury*.

SEPTEMBER 23, 1947.

[F. R. Doc. 47-8902; Filed, Oct. 1, 1947; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Bureau of Entomology and Plant Quarantine

[7 CFR, Part 319]

[Quarantine 74]

CUT FLOWERS QUARANTINE

NOTICE OF PROPOSED RULE MAKING

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup. 1003), notice is hereby given that the United States Department of Agriculture is considering the amendment, as hereinafter proposed, of § 319.74-3 of the regulations issued June 26, 1947, by the Secretary of Agriculture, supplemental to the Cut Flower Quarantine, Notice of Quarantine No. 74 (12 F. R. 4258) under authority contained in section 5 of the Plant Quarantine Act of August 20, 1912, 37 Stat. 316; 7 U. S. C. 159. Under the proposed amendment, § 319.74-3 (c) would be changed to read as follows:

§ 319.74-3 *Conditions governing the entry of cut flowers*. * * *

(c) Whenever, during the inspection of cut flowers imported in accordance with the regulations in this subpart, the inspector shall find them to be infested with an injurious insect or infected with an injurious plant disease, which can be eliminated by a method of treatment selected by him in accordance with administratively authorized procedures known to be effective under the conditions applied, he may prescribe as a condition of entry that such treatment be applied by the importer or his agent, under the supervision of the inspector. All costs for such treatment, except for the services of the inspector, shall be borne by the importer or his agent. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of such treatment on the cut flowers so treated. In lieu of treatment the importer of infested or infected cut flowers shall be given the option of immediately shipping them to a point outside the United States or abandoning them for immediate destruction.

The effect of this amendment is to delete the words "either of" between the words "disease," and "which" in the first sentence of this paragraph, thus clarifying its meaning.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid consideration shall file the same with the Chief of the Bureau of Entomology and Plant Quarantine, Agricultural Research Administration, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 15th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate. (37 Stat. 316; 7 U. S. C. 159)

Issued this 26th day of September 1947.

[SEAL] CLINTON P. ANDERSON, *Secretary of Agriculture*.

[F. R. Doc. 47-8891; Filed, Oct. 1, 1947; 8:45 a. m.]

Production and Marketing Administration

[7 CFR, Part 51]

FRUITS, VEGETABLES, AND OTHER PRODUCTS

PROPOSED RULE MAKING

Notice is hereby given, under the authority contained in the Department of Agriculture Appropriation Act, 1948 (Public Law 266, 80th Cong., 1st Sess., approved July 30, 1947), the Perishable

Agricultural Commodities Act, 1930, as amended (46 Stat. 531, 7 U. S. C. 499a et seq.), and the Agricultural Marketing Act of 1946 (60 Stat. 1088) that the United States Department of Agriculture is considering a revision of the provisions in § 51.36 of the rules and regulations governing the inspection and certification of fruits, vegetables, and other products (7 CFR, and Supps., 51.1 et seq.) so as to prescribe such increased fees for the inspection service as nearly as may be to cover the cost for the service rendered.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed increases in fees shall file the same in quadruplicate with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than 5:30 p. m., e. s. t., on the 20th day after the publication of this notice in the FEDERAL REGISTER.

The proposed revision is as follows:

Delete from § 51.36, the terms "$5.00" "$3.00" and "$9.00" and insert, in lieu thereof, the terms "$6.00" "$4.00" and "$12.00" respectively.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

SEPTEMBER 26, 1947.

[F R. Doc. 47-8892; Filed, Oct. 1, 1947; 8:45 a. m.]

[7 CFR, Part 946]

HANDLING OF MILK IN LOUISVILLE, KY., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Supps., 900.1 et seq., 11 F. R. 7737; 12 F R. 1159, 4904) a public hearing was held at Louisville, Kentucky on April 21-24, 1947, inclusive, pursuant to the notice thereof which was published in the FEDERAL REGISTER on April 4, 1947 (12 F R. 2254) upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Louisville, Kentucky, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on August 25, 1947, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER August 28, 1947 (12 F R. 5782)

The material issues presented on the record of the hearing were whether:

1. A definition of "Department of Agriculture" should be adopted;
2. The "Louisville, Kentucky, marketing area" should be revised to exclude therefrom Speed, Sellersburg, and Memphis in Clark County, Indiana;
3. The specification of the powers of the Market Administrator should be revised to provide for the making of rules and regulations to effectuate the terms and provisions of the order, and the recommendation of amendments thereof to the Secretary.
4. The specification of the duties of the Market Administrator should be revised to provide for the preparation and the making available of general statistics and information concerning the operations of the order to producers, consumers, and handlers;
5. The appropriate provisions of the order should be revised to provide for the determination of class prices, and payments to producers, on the basis of milk containing 3.8 percent, instead of 4 percent, butterfat.
6. Flavored milk, flavored milk drinks, and buttermilk containing 1 percent, or less butterfat should be classified as Class II milk;
7. The amount of plant shrinkage of producer milk to be classified as Class III milk should be 3 percent, instead of 2 percent, of the receipts of milk from producers;
8. The method of computing plant shrinkage on producer milk which is utilized in conjunction with receipts of milk, skim milk, or cream from sources other than producers and other handlers should be changed to provide for the proration of the total shrinkage on the basis of producer milk available for use as Class III milk and ungraded receipts;
9. A limited quantity of producer milk used in the manufacture of butter should be classified as Class IV milk;
10. Producer milk transferred or diverted from a fluid milk plant of a handler to his ungraded plant should be classified as Class III milk, except that, if milk, skim milk, or cream is disposed of as any product defined as Class I milk or Class II milk from such ungraded plant, such producer milk should be classified on the basis of its pro rata share of the disposition from the latter plant of all receipts by it, for the delivery period, of milk, skim milk, and cream;
11. The pounds of milk in each class should be determined on the basis of the pounds of butterfat disposed of in such class divided by the average butterfat test of producer milk for the entire market;
12. The receipts of emergency milk should be allocated to the respective classes in which used;
13. The Class I and Class II price differentials should be revised, "floor" prices for such classes should be established; and the basic formula price should be revised to provide for increases in the price levels for such classes;
14. The basic price provisions should also be revised so as (a) to increase the operating allowance in the butter-nonfat dry milk solids formula, when prices of such milk solids delivered at Chicago are used in lieu of such prices f. o. b. manufacturing plants, from 6½ cents to 7½ cents per pound, and (b) to correct the names of certain of the local manufacturing companies listed in the price computation formula for Class III milk;
15. The pricing provisions of the order should be revised to provide for the determination of Class I and Class II prices on the average of the basic formula prices for the current and the preceding delivery periods;
16. The price provided for Class I milk disposed of to relief clients should be revised;
17. A special price should be fixed for Class I milk disposed of by handlers to markets outside the marketing area;
18. The emergency price provision should be deleted;
19. Milk, received at the plant of a handler, the handling of which is determined by the Secretary to be subject to the pricing and payment provisions of another Federal milk marketing agreement or order, should not be subject to the pricing and payment provisions of Order No. 46, as amended;
20. The method of making even-production incentive payments should be revised so that such payments will be made directly to producers by the handlers;
21. The market administrator should cease offsetting payments due to any handler by payments due from such handler:
22. The system of determining the butterfat differential applicable to payments to producers should be revised to cover greater fluctuations in the butter price;
23. The provisions relating to expenses of administration should be revised (a) to require the market administrator to make available to handlers detailed accounts of income and disbursements and to declare funds so collected to be impressed with a trust; (b) to have administrative assessment rates determined by the Secretary, rather than by the market administrator, subject to the approval of the Secretary; and (c) to extend the base for assessments for administrative expenses to cover receipts of milk, skim milk, and cream received from sources other than producers and other handlers; and
24. The method of accounting for milk should be revised to establish the so-called "skim milk-butterfat" basis of reporting and accounting for utilization in each class.

Findings and conclusions. The findings and conclusions with respect to the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) There should be included, in the list of definitions, a definition of the term "Department of Agriculture," and such term should be defined as "the United States Department of Agriculture, or any other Federal agency authorized to perform the price reporting functions, as referred to in this order, of the United States Department of Agriculture."

Various provisions of the existing order specify the use, for computation purposes, of certain prices "as reported by the United States Department of Agriculture (or by such other Federal agency as may hereafter be authorized to perform this price reporting function)." The adoption of such definition will make it possible to simplify and shorten such references, but will make no change in the effect of the present provisions. The handlers, through their attorney, object on the grounds that the language will permit the use of prices reported by some other Federal agency even in case the Department of Agriculture continues to report such prices, and that there is no specified limitation as to what shall be considered as a "Federal agency." It is believed that the proposed language clearly expresses the intent that the prices used shall be those reported by the Department of Agriculture so long as such reports are made by such Department, and that, in case the Department discontinues making any such report, the prices used shall be those reported by the particular Federal agency to which the Department's former function in the matter was transferred.

(2) The "Louisville, Kentucky, marketing area" definition should not be revised to exclude Speed, Sellersburg, and Memphis in Clark County, Indiana.

This proposal was made by one of the two handlers who are serving these places with fluid milk, and the proponent admitted that his sole objective was to have himself relieved of the necessity of filing reports with the market administrator, of paying administrative assessments on his milk, and of making any necessary settlement with the producer-settlement fund. The other handler would still be regulated under the order even though these places should be excluded from the marketing area, in that he operates in other portions of the marketing area. The result of any such exclusion would, therefore, be to give the proponent handler a competitive advantage over the other handler in the sale of milk in such places. In addition, the applicable health regulations in effect in such places are identical with the corresponding health regulations in other portions of Clark County, Indiana, and there has been no showing which would justify such a differentiation in treatment.

(3) There should be included, in the specification of the powers of the market administrator, provisions for the making by him of rules and regulations to effectuate the terms and provisions of the order, and for the recommending to the Secretary of amendments to the order.

With respect to the making of rules and regulations by the market administrator, it is specifically provided in section 8c (7) (C) (ii) of the Agricultural Marketing Agreement Act of 1937, as amended, that this is one of the four powers which may be granted the administrator of a marketing order, and the proposed language is substantially the same as the statutory language on the matter. The handlers, through their attorney, contend that such power should be allowed to remain in the "Secretary, who is presently empowered to make the rules," so that such rules may be issued "in accordance with law." Such a position ignores the statutory authorization, providing specifically for the granting of such power to a market administrator. Of course, any such rules or regulations as may be issued by the market administrator will need to be issued in accordance with all applicable legal requirements.

With respect to the proposing of order amendments by the market administrator, it is specifically provided in section 8c (7) (C) (iv) of the Agricultural Marketing Agreement Act of 1937, as amended, that this is another one of the four powers which may be granted the administrator of a marketing order. By reason of the fact that a market administrator is concerned with the actual day to day administration of the order provisions, he is in an especially good position to observe any defects in their operation.

(4) There should be included, in the specification of the duties of the market administrator, provision for him to prepare and make available for the benefit of producers, consumers, and handlers, general statistical market information and general information concerning the operation of the order.

Information of the aforementioned types is necessarily collected by the market administrator in connection with the performance of his official duties, and it is believed that much of it will be valuable and helpful to the public. The performance of such function by the market administrator should not require the expenditure of any appreciable additional sum of money. To refuse to make such information available to interested parties would, in the circumstances, seem to be unwarranted, and the inclusion of the provision would merely make it clear that the market administrator has the authority to make such information available. The release of such data is believed to be incidental and necessary to the efficient operation of the order.

(5) The appropriate provisions of the order should be revised to provide for the determination of class prices and the payments to producers on the basis of milk containing 3.8 percent, instead of 4 percent, butterfat.

The average butterfat content of milk received from producers has decreased approximately 0.2 percent in the past 5 years. The average butterfat content of milk received from producers was below 4 percent during 5 months of 1946. The average butterfat content of the majority of fluid milk sales to consumers is 3.8 percent.

This change does not affect the handlers' cost of milk, inasmuch as the basic formula price has been reduced so as to reflect the prices on a 3.8 percent butterfat basis, rather than on a 4 percent butterfat basis. Therefore, the butterfat test upon which the producers' price is announced becomes a matter primarily of concern to producers. The evidence indicates that producers would prefer to receive payments based on an announced price reflecting a lower butterfat content. Producers' satisfaction with the method of announcing the uniform price tends to create more orderly marketing.

(6) Flavored milk, flavored milk drinks, and buttermilk containing one percent, or less, butterfat should not be classified as Class II milk.

The classification of these products was changed from Class II milk to Class I milk by an amendment to the order, effective June 1, 1942. In support of the proposal to change the classification of these products from Class I milk to Class II milk, it was claimed that (a) increased sales of these items had not kept pace with increased sales of whole milk, (b) such items are not directly competitive with whole milk products, and (c) the characteristics of the population of Louisville, Kentucky, make such items an essential part of the milk business.

To be sold in Louisville, Kentucky, these drinks must be made from inspected milk. They are disposed of in fluid form through the same retail and wholesale channels as bottled fluid milk and are used principally as a beverage. The physical characteristics, purposes, values, and uses of these items are more nearly similar to those of fluid milk than of the items now covered under Class II milk.

It was not shown that sales were retarded due to the reclassification of these products, effective June 1, 1942, nor that the majority of such sales are made to certain segments of the population of the marketing area. Even if such showings had been made, such arguments are not in themselves adequate reasons for reclassification of such products. The reclassification of such products would not be in the public interest in that it would necessitate higher minimum prices for milk disposed of as Class I milk in order to insure a sufficient quantity of pure and wholesome milk for the market.

(7) The proposal to increase the amount of plant shrinkage of producer milk to be classified as Class III milk from 2 percent to 3 percent of the receipts of milk from producers should not be adopted.

In support of the proposed increase, it was pointed out that for the months of August and September, 1946, the average shrinkage in the market was in excess of 2 percent, in January, 1946, the market average shrinkage was 1.938 percent, and that during those three months there was as large a volume of milk in plants reporting shrinkage in excess of 2 percent as there was in plants reporting shrinkage less than 2 percent.

The plant shrinkage of butterfat, expressed as a percent of total butterfat pounds in milk received from producers, averaged 1.658 percent in 1946, 1.938 percent in January, 1946, 2.019 percent in August, 1946, 2.232 percent in September, 1946, and less than 1.68 percent for all other months of 1946. Shrinkage allowances determined on the basis of the plant experiences of the most inefficient handlers would not create greater equity between handlers in costs of milk. In the light of these shrinkage percentages and the inequities inherent in the proposed increase, such proposal should not be adopted.

(8) The method of computing plant shrinkage on producer milk which is

utilized in conjunction with receipts of milk, skim milk, or cream from sources other than producers and other handlers should not be changed to provide for the proration of the total shrinkage on the basis of producer milk available for use as Class III milk and ungraded receipts.

The present order provisions specify two methods of allocating shrinkage on producer milk which is utilized with milk from other sources. If producer milk is utilized as milk, skim milk, or cream in conjunction with milk, skim milk, or cream from sources other than producers or other handlers, the shrinkage allocated to the producer milk may not exceed its pro rata share computed on the basis of the proportions of the volumes received, from the various sources to their total. However, if producer milk is transferred as milk, skim milk, or cream under supporting transfer records satisfactory to the market administrator, to a plant of a handler from which no producer milk is disposed of as fluid milk in the marketing area, the shrinkage on the producer milk so transferred is computed on a pro rata basis with all milk and cream utilized in the latter plant and added to the shrinkage on producer milk in the handler's fluid milk plant.

The proposed change would not provide an equitable basis of computing shrinkage on producer milk, in that it would permit a handler without satisfactory transfer records to report unaccounted for milk utilized in his Class I milk or Class II milk operations as producer milk available for Class III milk, and thereby have a lesser quantity of shrinkage allocable to producer milk than a handler with satisfactory transfer records who would have shown the actual shrinkage on his Class I milk and Class II milk operations in addition to his pro rata share of shrinkage on producer milk which he transferred for manufacturing purposes.

(9) The proposal that a limited quantity of producer milk (not in excess of 10 percent of a particular handler's Class I milk sales during the delivery period involved) used in the manufacture of butter should be classified as Class IV milk during all months of each year in lieu of the present price credit given handlers on such limited quantity of producer milk so utilized during the months of April, May, and June, should not be adopted. Also, the proposal that provisions for the present price credit on such limited quantity of producer milk so utilized during the months of April, May, and June be deleted should not be adopted at this time.

In support of the proposed "butter class" for all months of the year, it was contended that (a) larger quantities of butter were made during months of 1946 other than May and June, and (b) producer returns would not be affected, since the class prices should be adjusted so as to reflect "proper" returns. For manufacturing operations in the market, producer milk is transferred to the ungraded plants, in which the various milk products, including butter, are made. Such transferred producer milk is commingled with the ungraded milk in such plants. It was not shown that the quantities of butter produced in 1946 were made wholly from producer milk. However, even if this were the case, such fact would not constitute an adequate reason for making the change. It is not desirable that producer milk be utilized in the manufacture of butter at times when emergency milk is being received. In this connection, substantial quantities of emergency milk have been received by the handlers during seven to nine months of the year for each of the past three years. It would not be in the public interest to increase Class I and Class II milk prices to compensate producers for the inclusion of a lower-priced Class IV milk, in that such action would place an unnecessary, and an avoidable strain on the prices for such higher classes.

In support of the proposal to delete the provisions for the present price credit on the aforementioned limited quantity of producer milk utilized in the manufacture of butter during the months of April, May, and June, it was contended that (a) such provisions conflict with the objectives of the even-production incentive plan, and (b) the association is willing to assist in the disposition of any excess producer milk. The allowance of a lower price for the producer milk will be in accord with the objectives of the even-production incentive plan, in that it will tend to discourage, rather than encourage, production of producer milk in such period. It was not shown that there is any practicable way for disposing of such milk at a higher price through other outlets.

However, the provisions for the special price credit on such producer milk utilized in the manufacture of butter during the months of April, May, and June should be revised to conform with the adoption of the so-called "skim milk-butterfat" basis of reporting and accounting, as discussed under (24) hereof, in order to express such price credit in terms of butterfat, rather than in terms of milk.

(10) There should be adopted the proposal that producer milk transferred or diverted from a handler's fluid milk plant to his ungraded plant be classified as Class III milk, except that if milk, skim milk, or cream is disposed of as any product defined as Class I milk or Class II milk from such ungraded plant, such producer milk shall be classified on the basis of its pro rata share of the disposition from the latter plant of all receipts by it, for the delivery period, of milk, skim milk, and cream.

Transfers or diversions of the indicated nature occur, from time to time, in the market, and the existing order contains no provisions which cover the situation specifically. It is believed that the soundness of the proposal is evident. Milk so transferred or diverted to an ungraded or manufacturing plant which does not dispose of milk, skim milk, or cream in fluid form may reasonably be regarded as intended for manufacturing, or Class III use. However, from some ungraded plants, milk is disposed of in many different forms, including fluid milk and fluid cream to markets not requiring milk of approved Louisville quality. Classification problems are more complicated where producer milk is commingled with ungraded receipts. In the classification of milk, skim milk, and cream from producer milk which is commingled with ungraded receipts in a plant having such diversified uses it is necessary to allocate the use of such producer milk, since its specific utilization cannot be shown. The administering of the provisions on the basis of monthly delivery periods will be in accordance with the established custom in the market to treat all pool operations on a monthly basis. Considerable discussion was had at the hearing as to what should be considered as satisfactory records to establish that any such claimed transfers or diversions were actually made. It is impracticable to set forth in a marketing order complete and exhaustive rules on the basis of which such a determination must be made by the market administrator. That is to say, such a determination must be made, in each case of any audit, in the light of the particular facts and circumstances.

(11) The proposal that the pounds of milk in each class be determined on the basis of the pounds of butterfat disposed of in such class divided by the average butterfat test of producer milk for the entire market should not be adopted.

Under the method of reporting and accounting prescribed by the existing order, while the amount of Class I milk of a handler is computed on a volume basis, the quantities of his Class II milk and Class III milk are computed on a milk equivalent basis, and a reconciliation adjustment figure is used to make the aggregate of the volumes computed for the handler correspond with the total quantity of milk, skim milk, and cream which he received and for which he has to account. It was originally contended by the proponents that the use of the average market butterfat test as the divisor would eliminate any need for reconciliation adjustment. However, they subsequently admitted at the hearing that such a result would not follow. Also, the adoption of the plan would not promote equity between handlers in regard to their cost for milk. In any event, the objectionable results flowing from the existing method of reporting and accounting should be largely eliminated by the adoption of the proposed skim milk and butterfat method of reporting and accounting, whereunder the skim milk and butterfat will be accounted for separately in the light of their respective actual utilizations.

(12) The proposal that receipts of emergency milk be allocated to the respective classes in which used should not be adopted.

Under the existing order provision, the emergency milk received by a handler during a given delivery period is subtracted from his Class III milk after the subtraction from such class of milk, other than emergency milk, received from sources other than producers and other handlers and plant shrinkage which is allocable to such class. However, if the remaining Class III milk is not sufficient to cover the quantity of emergency milk, the balance is subtracted pro rata from his Class I milk and Class II milk. The argument advanced in favor of the proposed change is that despite the fact that the health ordinance for Louisville requires that the supply of inspected milk be exhausted for fluid purposes before any emergency milk is used for such purposes, it is necessary that handlers utilize some of their emergency milk for fluid (Class I milk and Class II milk) purposes, even though, for the same period, some inspected milk is used for manufacturing (Class III milk) purposes. They argue that, in these circumstances, the placing of the producer milk in the highest classes results in the paying of the premiums to the producers for not meeting their responsibilities for keeping the market supplied with adequate quantities of inspected milk. Such an argument ignores the fact that the effect of the proposal would be to lower the blend prices payable to producers for their milk in a market where the total production of producer milk is admittedly not adequate to meet the market needs, and that it would tend to reduce further the present inadequate supply of inspected milk. The allocation of milk so as to give preference for payment purposes to local producer milk is within the scope of the Agricultural Marketing Agreement Act of 1937, as amended.

(13) The Class I and Class II price differentials should not be revised, but floor prices for Class I milk and Class II milk should be established, and the basic formula price should be revised to provide for an increase in the levels of such prices.

Under the present pricing provisions of the order the prices for Class I milk and Class II milk are determined by adding $1.05 per hundredweight and $0.50 per hundredweight, respectively, to the formula price. The basic formula price is the higher of the Class III price, or the "paying" prices of 18 evaporated milk plants located in Wisconsin and Michigan less 15 cents. The Class III price is the higher of the "paying" prices of 7 local manufacturing plants, or a formula price based upon the open market prices of butter and nonfat dry milk solids, by roller process.

Several proposals were made with respect to the changing of the level of the prices for Class I milk and Class II milk. Proposals made by the handlers would decrease the existing differential for Class I milk by 15 cents per hundredweight and the existing differential for Class II milk by 10 cents per hundredweight and eliminate the use for price computation purposes of the prices paid by the listed 18 evaporated milk plants located in Wisconsin and Michigan. On the other hand, the producers submitted several proposals to increase such price levels, namely (a) to add 15 cents to each of the alternative basic formula computations, (b) to establish minimum floor prices of $5.00 for Class I milk and $4.45 for Class II milk during the fall and winter months of 1947–48, and (c) to substitute "spray" powder for "roller" powder in the butter-nonfat dry milk solids alternative formula.

General economic conditions and business activity in the Louisville area indicate a continued good demand for milk and milk products.

The uniform price per hundredweight for milk of 4.0 percent butterfat was $5.87 for November 1946, and $4.62 for March 1947—a decrease of $1.25 per hundredweight. The prices of livestock and grains have advanced sharply in 1947 and compared to declining milk prices offer returns from alternative farm enterprises which will tend to discourage milk production if these price relationships continue over an extended period of time.

Louisville handlers compete with milk buyers in other areas for supplies to be used for fluid milk purposes. Several manufacturing plants also buy milk from farmers residing in or near the Louisville milkshed.

More rigid enforcement of the Louisville Health Department regulations are indicated in the immediate future.

Data bearing on the cost of feeds, labor, and supplies incurred by Louisville producers in the production of milk showed an upward trend in the cost of these items during 1946 and 1947. The price of some feeds decreased somewhat from the peak reached when price ceilings were removed in 1946 until February 1947. During February and March of 1947 the price of dairy feeds again advanced. Farmers producing milk for fluid purposes must use feed, labor, and supplies more extensively to maintain production at a more uniform level than is required of manufacturing milk producers. Consequently, the increase in the prices which have taken place in these items affect the fluid milk producers more than producers of milk for condenseries.

Handlers contend that the general level of prices should not be increased in view of the fact that there has been a steady and constant increase in the number of producers and a substantial increase in the production per farm per day. In March 1947, the number of producers was 1,688, as compared with a range in number of producers from 1,612 to 1,706 during 1944, 1,639 to 1,671 in 1945, and 1,607 to 1,700 in 1946. The average daily deliveries per producer was 270 pounds in 1944, 294 pounds in 1945, 307 pounds in 1946, and 309 pounds in March 1947.

The level of production of regular producer milk has been insufficient to meet the needs of Class I milk and Class II milk in the Louisville market. It has been necessary for handlers to supplement their supplies of producer milk in Class I and Class II with substantial quantities from emergency sources. During eight months of 1946, over 7 million pounds of emergency milk was imported by handlers in the marketing area.

It is concluded that the weighing of the above mentioned price-making factors indicates the present need for revising the levels of prices for Class I milk and Class II milk upward by not less than 10 cents per hundredweight. This result would be accomplished by increasing by 15 cents per hundredweight each of the formulas used in the computation of the basic formula price. Although the change to the so-called "skim-milk butterfat" method of reporting and accounting will tend to reduce the total value of Class I and Class II milk, it is anticipated that this change in conjunction with the aforementioned changes will result in increases of not less than 10 cents per hundredweight in the price levels of Class I and Class II milk.

It is concluded that the milk producers of the Louisville area need at this time, when they are operating their fall and planning their winter production program, more definite assurance as to the level of milk prices than is presently afforded by the basic formula price. In order to obviate uncertainties inherent in the basic formula price during abnormal postwar marketing conditions a minimum price for Class I milk and Class II milk is established below which such prices would not be permitted to go. The level of floor prices for the fall and winter months should be substantially higher than the prices prevailing during April, May, and June to emphasize the seasonal factor of milk pricing and assure producers of higher prices during the seasons when an increase in milk production is most needed by the market. Floor prices beginning from the effective date of the proposed marketing agreement and order, as amended, to and including December 1947, of $5.00 for Class I milk and $4.45 for Class II milk, and decreasing 44 cents (approximately 1 cent per quart) for January and February, 1948, will recognize this seasonality and result in prices well above the current level of April, May, and June prices.

The above changes will result in such prices as will reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply of and demand for milk or its products in the marketing area, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

The proposal to eliminate the 18 evaporated milk plants in the basic formula price used in determining Class I and Class II prices should not be adopted. In support of the proposal to discontinue the use of such plants in arriving at the Class I and Class II prices, it was contended that the quality of milk purchased by such plants has improved to a point where such plants have developed market outlets of higher-valued use, which, in turn, has been reflected in higher prices paid to their farmers. Such argument is appropriate only in reference to the establishment of the proper price differentials to be paid to producers of the Louisville market over the prices paid to farmers selling milk to such plants.

Exception was taken by the handlers to the inclusion of floor prices for the fall and winter months, on the basis that floor prices were not mentioned in the hearing notice. However, the hearing notice apprised all interested parties that the level of producer prices was a material issue, and the proposed floor prices are a method, fully within the authority of the act, for implementing and assuring the proper level of producer returns. The setting of such prices on the basis of data as to the economic situation at the time of the hearing with respect to the actual and prospective supply and cost of feeds, material, and labor, the supply of and demand for milk, and other economic factors is a necessary and proper procedure.

Handlers excepted to the inclusion of two separate butter-powder formulas on the basis that the two formulas make for confusion and that the record does not justify the use of spray nonfat dry milk in the butter-powder formula. Producers, in making exception to the recommended decision, pointed out that use of spray powder rather than roller powder in the butter-powder formula will not result in a price increase commensurate with that provided for in the other alternate formulas. On a review of the record, it is concluded that the evidence does not justify disturbing the relationship between the three formulas used in computing the basic price and the price structure set forth above is justified.

(14) (a) The proposal to revise the basic price provisions so as to increase the operating allowance in the butter-nonfat dry milk solids formula, when prices of such milk delivered at Chicago are used in lieu of such prices f. o. b. manufacturing plants, from 6½ to 7½ cents per pound should not be adopted.

The present provisions of the order provide that, in the event prices of nonfat dry milk solids f. o. b. manufacturing plants are not published by the Department of Agriculture, the price for such milk solids delivered at Chicago shall be used in lieu thereof, in which the allowance for operating is 6½ cents. The relative quoted prices for nonfat dry milk solids delivered f. o. b. manufacturing plants and those delivered at Chicago, respectively, as set forth in the general statistical information for the market, demonstrate that the present spread between the 5½ cent operating allowance f. o. b. manufacturing plants and the 6½ cent operating allowance delivered at Chicago is adequate.

(b) The proposal to revise the basic price provisions so as to correct the reference the "Kraft Cheese Company" to the "Kraft Foods Company" in the 7 local manufacturing companies should be adopted to reflect the change in the name of such company.

(15) The pricing provisions of the order should not be revised to provide for the determination of Class I and Class II prices based upon the average of the basic formula prices for the current and preceding delivery periods.

Under the present order, class prices are not known until approximately the 10th day after the end of the delivery period during which the milk is received. The proposed change was suggested for the purpose of reducing somewhat the monthly variations in Class I milk and Class II milk prices and to enable handlers to estimate more nearly in advance the level of such prices which they would be required to pay in a current delivery period. Handlers complain that they are placed at a disadvantage by not knowing the exact Class I and Class II milk prices they will have to pay for milk received from producers until after that milk has been disposed of by them. Handlers are now in a position to estimate, within a reasonable range during a delivery period, the prices which will result from the prescribed computation formulas. It is believed that any such disadvantage is more than outweighed by the fact that the change will disrupt the seasonal pattern of prices to producers.

(16) The proposal to revise the price for Class I milk disposed of to relief clients on the basis of the Class I price minus 55 cents should not be adopted. No evidence on this proposal was introduced at the hearing.

(17) The proposal that a special price be fixed for Class I milk disposed of by handlers to markets outside the marketing area should not be adopted.

It was proposed that the price of Class I milk disposed of in any market outside the marketing area should be the "price, as ascertained by the market administrator, which is being paid for milk of an equivalent use in the market where such milk is disposed of" less a transportation allowance of 1½ cents per hundredweight for each 15 miles or fraction thereof that such milk is transported for sale: *Provided*, That such resulting price shall not be lower than the Louisville Class I price minus 40 cents.

Milk approved for Louisville distribution is sold in several markets outside the marketing area. Some of this milk is sold under resale price levels lower than those in the marketing area. The markets in which such milk is distributed have health standards less stringent than those applicable to the City of Louisville. The demand for graded milk in communities outside the marketing area has grown.

The price effective under the Louisville order should be such as to induce a supply adequate to meet the demand of the Louisville marketing area. It is necessary for Louisville handlers to import substantial quantities of emergency milk to meet present demands. The fixing of lower prices for milk sold in other markets could have a depressing effect on the prices paid farmers by competing unregulated distributors in such markets, which lower prices, in turn, might further depress the "ascertained prices" proposed to be used under the Louisville order.

Moreover, prices paid by individual distributors within a single outside market often vary greatly and the standards and methods by which the market administrator would ascertain the price being paid in the outside market for milk of equivalent use was not outlined. From the administrative viewpoint, it is considered undesirable to burden the market administrator with the responsibility of determining outside market price levels in such circumstances. Furthermore, it was admitted that handlers now paying the Louisville prices have been able to meet competition in outside markets and that such sales have increased.

(18) The proposal that the emergency price provisions be deleted should be adopted.

These provisions were incorporated in the order to cover certain wartime emergency conditions which no longer exist.

(19) The proposal to exempt milk, the handling of which is determined by the Secretary to be subject to the pricing and payment provisions of another Federal milk marketing agreement or order, from the pricing and payment provisions of this order, should not be adopted.

Testimony adduced at the hearing indicates little likelihood that this proposed revision would be applicable to any situation which might occur in the Louisville market. It is felt that the present definitions of producer, handler, and emergency milk are reasonably sufficient to cover such situations.

(20) The proposal to revise the even-production incentive payment provisions so as to have such payments made directly by the handlers should not be adopted.

Under the existing order provisions, the specified deductions during the flush production months of April, May, and June are paid by the handlers to the market administrator, who, in turn, pays out the money to producers by separate checks, either directly or through their cooperative association, during the following September, October, and November. An educational program is essential to the effective operation of an even-production incentive plan, and one of the most effective means of apprising producers of the benefits which accrue to them is to pay the extra money to them separately. The proposal would result in the merging of such extra payments with regular milk payments. The record does not contain substantial proof as to the desirability or necessity for the operation in detail of the proposed amendment. The money in question is producer money and involves no extra cost to handlers. The association, representing more than two-thirds of the producers in the market, takes the position that the producers generally desire that the present method of payment be continued.

The record does not warrant changing or modifying the even-production incentive plan, which is a pooling arrangement, under the act, and is ancillary to the price provision and is reasonably adapted to allow regulation of the market upon terms which minimize the results of the restrictions.

(21) The payment provisions of the order should not be revised to preclude the market administrator from offsetting payments due any handler from the producer-settlement fund by payments due by such handler to such fund.

The present practice is in accordance with the general legal principle of offsetting a debt owed by one party against a debt owed by the other party when making final settlement. In case of a dispute as to the amount due, the present practice leaves the particular handler free to seek relief through the channels provided by the Agricultural Marketing Agreement Act of 1937, as amended, namely through administrative proceedings pursuant to section 8c (15) (A) of that act and through appropriate court review of the decisions resulting therefrom. The adoption of the proposal, on the other hand, would require the prosecution of individual suits, entailing considerable aggregate expense, for the collection of such debts. Further, the adoption of such proposal would require the market administrator to make payments to a handler even in a case where it had been determined that such handler owed the producer-settlement fund in connection with the filing of fraudulent reports, and in the case of a handler who owes money to the producer-settlement fund, but who is financially unable to make full payment of all of his debts. From an administrative standpoint, it is impossible to make "billings" based upon audits of a current delivery period prior to the date that the market administrator is required to make payments to handlers out of the producer-settlement fund, since the market administrator is required to pay out any funds owed before all reports are required to be filed.

(22) The system of determining the butterfat differential applicable to payments to producers should be revised to cover greater fluctuations in the butter price.

Under the present order, the producer butterfat differential is determined by means of stated differentials varying one-half cent for each butter price range (bracket system) The butter price brackets range from "22.499 cents or less" per pound to "62.50 cents and over" per pound. It was proposed that such brackets be extended to provide brackets from "17.499 cents or less" per pound to "92.50 cents and over" per pound. In the recommended decision it was proposed that the producer butterfat differential be stated in terms of "butter plus 20 percent." Exception to this proposal was taken by producers on the basis that when the price of butter is at relatively high levels, this formula would result in too great a price difference between the low test and high test producers. Since the producer butterfat differential is primarily a producer problem, it is concluded that the differential should be stated in terms of the producer proposal.

In computation of the basic formula price, however, the price of butter plus 20 percent thereof should be used in order to arrive at a value to represent the value of butterfat for manufacturing purposes.

(23) (a) The proposal that the provisions relating to expenses of administration be revised to require the market administrator to make available to handlers detailed accounts of income and disbursements, and to declare that funds so collected are impressed with a trust should not be adopted.

In support of such proposal, the handlers argued that, since they pay the money, they should be furnished with an accounting with respect to it. It was developed at the hearing that a report of such income and expenses had been furnished the handlers for 1946 and that it is intended to continue such practice for various markets, including the Louisville market, in the future. Such report contains as complete information as is believed to be practicable without disclosing confidential information and to retain uniformity with the reports which are being made in other Federal markets. In these circumstances, it seems that the inclusion in the order of specific provisions on the matter would serve no useful purpose.

(b) The proposal that the provisions relating to expenses of administration be revised to have administrative assessment rates determined by the Secretary, rather than by the market administrator subject to the Secretary's approval, should be adopted.

The procedure for fixing or making changes in administrative assessment rates will be made less complicated if it is made a direct, rather than a review, function of the Secretary.

(c) The base for assessments to cover administrative expenses should be broadened to include receipts of emergency milk.

The existing order provisions provide that the assessments apply only against the receipts of milk from producers (including receipts of milk from handlers' own farms). It was proposed that such base be broadened to cover receipts from all sources (producer milk, emergency milk, and other source milk) However, while other source milk is received by many handlers, the Louisville Health Department does not permit such milk to be received in approved plants and commingled with producer milk and emergency milk. On the other hand, the market administrator has to audit the disposition of emergency milk received at the approved plants the same as he does producer milk received at such plants and such emergency milk should bear its pro rata share of the administrative costs. Substantial quantities of emergency milk have been received for the past three years for use in the various classes, and the change will apportion the expenses of administration more equitably. The rate would be applied to the broadened base the same as at present, namely, at the specified rate per hundredweight, regardless of butterfat content.

(24) The proposal to amend the present method of accounting for milk by substituting therefor appropriate language to establish a method of reporting, accounting, and pricing skim milk and butterfat, respectively, should be adopted.

Under the present provisions of the order, the pounds of Class I milk are computed on a volume basis, while the pounds of Class II milk and Class III milk are computed on the basis of 4 percent milk equivalent of the butterfat content in the various Class II and Class III milk products. The total volumes computed in this manner are then adjusted to equal actual receipts by increasing or decreasing, as the case may be, the pounds of Class III milk by an amount equal to such difference. Following such reconciliation adjustment of the total utilization as computed for the various classes to actual receipts, the receipts of milk from producers are allocated to the pounds of milk remaining in each class. Class prices quoted in terms of milk of 4 percent butterfat content are then applied to the pounds of producer milk so allocated.

In support of the proposal, handlers stated that it was not their intention that the resulting blend price should be lowered by its adoption, but that a method of reporting, classifying, and pricing skim milk and butterfat, respectively, should be substituted for the present system in order to eliminate the necessity of a reconciliation adjustment, and to make it possible for handlers to compute the costs of individual products in the various classes. It was recognized that the language of the various provisions of the order should be revised to conform with this principle.

The change will simplify order operations and will tend to create greater equity between handlers, in that the necessity for using a volume reconciliation adjustment figure will be obviated by adjusting class prices in accordance with the percentage of butterfat disposed of in the products in each respective class, and by allocating the receipts of skim milk and butterfat, separately, rather than by applying the allocation provisions on the basis of the receipts in the aggregate of milk, skim milk, and cream. Furthermore, the change will enable handlers to compute more accurately the costs to them of the individual products in the several classes. These advantages are weighted in favor of the adoption of the plan in the Louisville market because of relatively high test milk received from producers which aggravate problems of reconciliation.

The specific proposals in this connection which were presented at the hearing provided for computing basic prices for skim milk and butterfat, separately, and adding fixed differentials for Class I skim milk and Class II skim milk and fluctuating differentials for Class I butterfat and Class II butterfat based on the value of 92-score butter at Chicago for such delivery period. Such a method would result in fluctuations in the prices payable to producers for their milk other than those which would accrue from the prescribed formula methods of price computations and would be in conflict with the expressed intent of the proponents that the change not affect such prices. Therefore, the change should be effected on a basis which will maintain the specified differentials over the basic price for Class I milk and Class II milk.

The proposal to compute the volumes of the various classes of milk by determining the volumes of skim milk and butterfat disposed of in each such class, rather than the present method of computing Class II milk and Class III milk on a milk equivalent basis and reconciling such volumes to actual receipts, necessitates the adjusting of class prices to reflect the value of butterfat above or below the test of milk for which prices are quoted. It is believed that such differential for Class III milk should be on the basis of the value of 92-score butter at Chicago plus 20 percent. This differential is in line with the general level of manufacturing values. With respect to Class II milk, it is believed that such differential should be on the basis of the value of 92-score butter at Chicago, plus 25 percent. Such differential is in line with the price which would have to be paid for any outside cream which might be brought into the market for fluid uses. With regard to Class I milk, it is believed that such differential should be on the basis of the value of 92-score butter at Chicago plus 30 percent. Such differential recognizes the increase in value over Class II butterfat resulting from the higher-valued use.

Various other provisions of the order should be revised to conform with this change. In this connection, a definition of "other source milk," excepting nonfluid milk products which are received and disposed of in the same form, will simplify the operation of the order by eliminating the necessity of reporting and classifying such milk products.

Rulings on exceptions to recommended decision. Exceptions to the recommended decision were filed on behalf of producers and handlers. With regard to certain of these exceptions, this decision contains a specific ruling thereon in the discussion of the material issue to which the exception refers. Other such exceptions not specifically ruled on above have been fully considered in connection with the particular issues to which they relate, and they are hereby denied.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the Louisville, Kentucky, Marketing Area," and "Order, as Amended, Regulating the Handling of Milk in the Louisville, Kentucky, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as proposed to be further amended by the attached amending order which will be published with the decision.

This decision was filed at Washington, D. C., this 26th day of September 1947.

[SEAL] CLINTON P ANDERSON,
Secretary of Agriculture.

Order,[1] as Amended, Regulating the Handling of Milk in the Louisville, Kentucky, Marketing Area

§ 946.0 *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders, as amended (7 CFR, Supps. 900.1 et seq., 11 F. R. 7737; 12 F R. 1159, 4904) a public hearing was held on April 21–24, 1947, upon proposed amendments to the order, as amended, and the marketing agreement regulating the handling of milk in the Louisville, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(a) The said order, as amended and as hereby further amended, and all the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(b) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of said milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to the persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which hearings have been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Louisville, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended; and the aforesaid order is hereby amended to read as follows: –

§ 946.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

(b) "Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Louisville, Kentucky marketing area," hereinafter called the "marketing area," means the territory within Jefferson County, Kentucky, including but not being limited to the City of Louisville and Fort Knox Military Reservation; and the territory within Floyd County, Indiana, including but not being limited to all municipal corporations in said county; and the territory within the townships of Jeffersonville, Utica, Silver Creek, Union, and Charlestown, in Clark County, Indiana.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Producer" means any person who produces, under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, milk which is:

(1) Received at a plant from which milk or cream is disposed of in the marketing area for human consumption as fluid milk or fluid cream;

(2) Received at a plant approved by the appropriate health authority in the marketing area to furnish milk or cream to a plant described under subparagraph (1) of this paragraph; or

(3) Diverted from any plant described under either subparagraph (1) or subparagraph (2) of this paragraph to any other milk distributing or milk manufacturing plant, including any plant described under subparagraphs (1) or (2) of this paragraph: *Provided,* That any such milk so diverted shall be deemed to have been received at the plant from which it was diverted.

(f) "Handler" means:

(1) Any person who receives milk, produced under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, at a plant described in paragraphs (e) (1) or (e) (2) of this section; and

(2) Any association of producers with respect to milk diverted from a plant described under paragraphs (e) (1) or (e) (2) of this section to any milk distributing or milk manufacturing plant not operated by a handler, for the account of such association.

(g) "Market administrator" means the person designated pursuant to § 946.2 as the agency for the administration hereof.

(h) "Delivery period" means any calendar month.

(i) "Emergency milk" means milk, skim milk, or cream received by a handler from sources other than producers under a permit for the receipt thereof issued to him by the proper health authorities.

(j) "Other source milk" means all skim milk and butterfat in any form received from a source other than producers or other handlers, except emergency milk and any nonfluid milk product which is received and disposed of in the same form.

(k) "Department of Agriculture" means the United States Department of Agriculture, or any other Federal agency authorized to perform the price reporting functions, as referred to in this order, of the United States Department of Agriculture.

§ 946.2 *Market administrator*—(a) *Selection, removal, and salary.* The agency for the administration hereof shall be a market administrator who shall be a person selected, and subject to removal, by the Secretary. Such person shall be entitled to such compensation as may be determined by the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof;

(2) Receive, investigate, and report to the Secretary complaints of violation of the terms and provisions hereof;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(3) Make rules and regulations to effectuate the terms and provisions hereof; and

(4) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein and shall surrender the same to his successor or to such other person as the Secretary may designate;

(2) Submit his books and records to examination and furnish such information and such verified reports as may be requested by the Secretary;

(3) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 946.5 or (ii) made payments pursuant to § 946.8;

(5) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(6) Pay, out of the funds provided by § 946.10, the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties, except those expenses incurred under § 946.9 hereof;

(7) Promptly verify the information contained in the reports submitted by handlers; and

(8) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof.

§ 946.3 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat received by a handler in (1) milk from producers, (2) milk, skim milk, and cream from other handlers, (3) emergency milk, and (4) other source milk; at a plant, described under subparagraphs (1) or (2) of § 946.1 (e) and skim milk and butterfat contained in milk handled pursuant to paragraphs (e) (3) and (f) (2) of § 946.1, shall be classified in the classes set forth in paragraph (b) of this section. In establishing the classification of skim milk and butterfat as required in paragraph (b) of this section, the burden rests upon the handler who is the first receiver to account for all skim milk and butterfat contained in milk, skim milk, and cream received and to prove that such skim milk and butterfat has been utilized in a class other than that in which the market administrator determines that such skim milk and butterfat should be classified.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c) (d) (e) and (f) of this section the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, buttermilk, and milk drinks, whether plain or flavored, and (ii) not specifically accounted for as Class II milk and Class III milk.

(2) Class II milk shall be all skim milk and butterfat disposed of as fluid cream (including sour cream) and any cream product disposed of in fluid form which contains less than the minimum butterfat content required for fluid cream.

(3) Class III milk shall be all skim milk and butterfat accounted for (i) as used to produce a product other than those specified in Class I milk and Class II milk, (ii) as actual plant shrinkage of skim milk and butterfat in milk received from producers, but not to exceed 2 percent of such receipts of skim milk and butterfat, respectively, and (iii) as actual plant shrinkage of skim milk and butterfat in emergency milk and other source milk: *Provided,* That if milk is diverted by a handler to a plant of another handler without first having been received for purposes of weighing and testing in the diverting handler's plant, the respective quantities of skim milk and butterfat contained in such milk shall be included in the receipts of skim milk and butterfat, respectively, of the second handler in computing his plant shrinkage and shall be excluded from the receipts of skim milk and butterfat, respectively, of the diverting handler in the latter's plant shrinkage computation: *And provided further,* That (*a*) if milk from producers is utilized as milk, skim milk, or cream in conjunction with emergency milk or other source milk, the shrinkage of skim milk or butterfat, respectively, allocated to the milk from producers shall not exceed its pro rata share computed on the basis of the proportions of such volumes of skim milk and butterfat, respectively, received from the various sources to their total, and (*b*) if milk from producers is transferred as milk, skim milk, or cream under supporting transfer records satisfactory to the market administrator, to a plant of a handler from which no milk of producers is disposed of as fluid milk in the marketing area, the shrinkage of skim milk and butterfat, respectively, on the aforesaid transferred portion shall be computed on a pro rata basis with the skim milk and butterfat, respectively, contained in all milk, skim milk, and cream received in the latter plant and added to the shrinkage of producer's milk handled in the handler's fluid milk plant.

(c) *Interhandler and nonhandler transfers.* (1) All skim milk and butterfat contained in milk and skim milk disposed of, either by transfer or diversion, by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products shall be Class I milk, and all skim milk and butterfat contained in cream so disposed of shall be Class II milk, unless utilization in another class is mutually indicated in writing to the market administrator by both the transferring handler and the receiver on or before the 5th day after the end of the delivery period: *Provided,* That in no event shall the amount so indicated in writing for any class exceed the total use of skim milk or butterfat, respectively, in such class by the receiver, subject to verification by the market administrator: *And provided further,* That the classification of any such transfer or diversion of skim milk and butterfat between handlers shall be subject to allocation for each handler in the sequence set forth in paragraph (e) of this section.

(2) All skim milk and butterfat contained in milk and skim milk disposed of from a handler's plant to soda fountains, bakeries, restaurants, and other retail food establishments which dispose of milk for both fluid and other uses shall be Class I milk: *Provided,* That skim milk and butterfat contained in milk and skim milk disposed of in bulk from a handler's plant to any such establishment which, under the applicable health regulations, is permitted to receive milk and skim milk other than of Grade A quality for nonfluid purposes shall be classified as Class III milk if used or disposed of by such establishment in other than fluid form, provided such use or disposition is made subject to verification by the market administrator.

(3) All skim milk and butterfat contained in cream disposed of from a handler's plant to soda fountains, bakeries, restaurants, and other retail food establishments which dispose of cream for both fluid and other uses shall be Class II milk: *Provided,* That skim milk and butterfat contained in cream disposed of in bulk from a handler's plant to any such establishment which, under the applicable health regulations, is permitted to receive cream other than of Grade A quality for nonfluid purposes shall be classified as Class III milk if used or disposed of by such establishment in other than fluid form, provided such use or disposition is made subject to verification by the market administrator.

(4) All skim milk and butterfat contained in milk, skim milk, and cream transferred or diverted by a handler from a plant, described under subparagraphs (1) or (2) of § 946.1 (e) of such a handler, to any other plant of such handler, shall be Class III milk: *Provided,* That if skim milk and butterfat are so transferred or diverted to such a plant from which milk, skim milk, or cream is disposed of as any product specified in paragraphs (b) (1) (i) or (b) (2) of this section, such skim milk and butterfat, respectively, so transferred or diverted shall be classified on the basis of the pro rata share of the disposition from the latter plant of skim milk and butterfat, respectively, available for transfer, less shrinkage computed pursuant to paragraph (b) (3) (iii) of this section, and skim milk and butterfat, respectively, contained in other receipts of milk, skim milk, and cream at the latter plant.

(d) *Computation of skim milk and butterfat in each class.* For each delivery period the market administrator shall correct for mathematical and for other obvious errors the report submitted by each handler and compute from the corrected report:

(1) The total pounds of skim milk received by adding together (i) the pounds of milk received from producers, (ii)

the pounds of milk, skim milk, and cream received from other handlers, (iii) the pounds of emergency milk received, and (iv) the pounds of other source milk received; and subtracting therefrom the total pounds of butterfat determined pursuant to subparagraph (2) of this paragraph.

(2) The total pounds of butterfat received by adding into one sum the pounds of butterfat contained in receipts from sources specified in subparagraph (1) of this paragraph.

(3) The total pounds of skim milk in Class I milk by (i) converting to quarts the quantity of milk, skim milk, and cream disposed of in the form of milk, buttermilk, and milk drinks, whether plain or flavored, and multiply by 2.15; (ii) subtracting the pounds of butterfat in Class I milk determined pursuant to subparagraph (4) (i) of this paragraph; and (iii) adding together the result obtained in subdivision (ii) of this subparagraph and the excess shrinkage of skim milk determined pursuant to subparagraph (7) (iii) (*b*) or subparagraph (8) (ii) of this paragraph.

(4) The total pounds of butterfat in Class I milk by (i) adding together the pounds of butterfat in each of the several products of Class I milk; and (ii) adding together the result obtained in subdivision (i) of this subparagraph and the excess shrinkage of butterfat determined pursuant to subparagraph (9) (ii) (*b*) of this paragraph.

(5) The total pounds of skim milk in Class II milk by (i) adding together the pounds of milk, skim milk, and cream disposed of in each of the several products of Class II milk; and (ii) subtracting the pounds of butterfat in Class II milk determined pursuant to subparagraph (6) of this paragraph.

(6) The total pounds of butterfat in Class II milk by adding together the pounds of butterfat disposed of in each of the several products of Class II milk.

(7) The total pounds of skim milk in Class III milk by (i) adding together the pounds of milk, skim milk, and cream which were used to produce each of the several products of Class III milk; (ii) subtracting the pounds of butterfat in Class III milk computed pursuant to subparagraph (9) (i) of this paragraph; (iii) subtracting from the total pounds of skim milk received computed pursuant to subparagraph (1) of this paragraph the total pounds of skim milk computed for each class pursuant to subparagraphs (3) (ii) and (5) (ii) of this paragraph and subdivision (ii) of this subparagraph, which resulting amount shall be classified as follows: (*a*) that portion not in excess of 2 percent of total receipts of skim milk from producers, plus actual plant shrinkage of skim milk received from sources other than producers and handlers shall be considered as plant shrinkage and classified as Class III milk, and (*b*) that portion in excess of 2 percent of total receipts of skim milk from producers shall be classified as Class I milk: *Provided,* That if such excess shrinkage of skim milk is greater than the quantity determined pursuant to subparagraph (8) (ii) of this paragraph such quantity shall apply in lieu hereof, and the remainder of such excess shrinkage shall be classified as Class III milk; and (iv) adding together the pounds of skim milk obtained in subdivision (ii) of this subparagraph, and the pounds of skim milk allocated to Class III milk pursuant to subdivision (iii) of this paragraph.

(8) In the event that the total pounds of skim milk obtained in subdivision (ii) of this subparagraph is less than the amount of skim milk shrinkage determined pursuant to subparagraph (7) (iii) (*b*) of this paragraph such quantity of skim milk shall be used in lieu therefor: (i) divide the pounds of butterfat shrinkage in producer milk, computed pursuant to subparagraph (9) (ii) (*b*) of this paragraph, by the average test of milk, skim milk, and cream available for use in Class III milk, less Class III purchases of milk, skim milk, and cream from other handlers, and (ii) subtract such quantity of butterfat shrinkage from the result obtained in subdivision (i) of this subparagraph.

(9) The total pounds of butterfat in Class III milk by (i) adding together the pounds of butterfat used to produce each of the several products of Class III milk; (ii) subtract from the total pounds of butterfat received, computed pursuant to subparagraph (2) of this paragraph, the pounds of butterfat in Class I milk and Class II milk computed pursuant to subparagraphs (4) (i) and (6) of this paragraph, and the pounds of butterfat computed pursuant to subdivision (i) of this subparagraph, which resulting amount of butterfat shall be classified as follows: (*a*) that portion not in excess of 2 percent of total receipts of butterfat from producers, plus actual plant shrinkage of butterfat in emergency milk and other source milk shall be considered as plant shrinkage and classified as Class III milk, and (*b*) that portion in excess of 2 percent of total receipts of butterfat from producers shall be classified as Class I milk; and (iii) adding together the results obtained in subdivisions (i) and (ii) (*a*) of this subparagraph.

(e) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class, for each handler, after making the following computations shall be the pounds of skim milk in such class allocated to milk received from producers:

(i) Subtract from the total pounds of skim milk computed for each class, in series beginning with the lowest-priced available class milk, the total pounds of skim milk contained in receipts of other source milk;

(ii) Subtract from the pounds of skim milk remaining in Class III milk an amount of skim milk so utilized, pursuant to paragraph (b) (3) (i) of this section, but not to exceed 5 percent of the total receipts of skim milk from producers plus the shrinkage of skim milk on milk received from producers, computed pursuant to paragraph (d) (7) (iii) (*a*) of this section;

(iii) Subtract from the pounds of skim milk remaining in Class III milk the pounds of skim milk contained in emergency milk received: *Provided,* That if the pounds of skim milk in emergency milk is greater than the pounds of skim milk remaining in Class III milk, the balance of such skim milk shall be subtracted pro rata from the pounds of skim milk in Class I milk and Class II milk;

(iv) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subdivision (ii) of this subparagraph;

(v) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk contained in milk, skim milk, and cream received from other handlers and assigned to such class: *Provided,* That if the pounds of skim milk to be subtracted from Class II milk or Class III milk is greater than the pounds of skim milk remaining in such class, the balance shall be subtracted from the pounds of skim milk remaining in the next higher-priced class; and

(vi) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in each class in series beginning with the lowest-priced available class.

(2) Determine the pounds of butterfat to be allocated to milk received from producers in a manner similar to that prescribed in subparagraph (1) of this paragraph for skim milk (except that the reference paragraph (d) (9) (ii) (*a*) shall be substituted for the designated reference paragraph (d) (7) (iii) (*a*) set forth in subparagraph (1) (ii) of this paragraph)

(f) *Determination of producer milk in each class.* Add the pounds of skim milk and pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of paragraph (e) of this section, and determine the percentage of butterfat in each class.

§ 946.4 *Minimum prices*—(a) *Basic formula prices for Class I milk and Class II milk.* The basic formula price per hundredweight of milk to be used in computing the prices for Class I milk and Class II milk, set forth in subparagraphs (1) and (2) of paragraph (b) of this section shall be the price for Class III milk plus 15 cents, or that resulting from the following formula, whichever is the higher:

To the average of the basic (or field) prices reported to have been paid or to be paid for milk of 3.5 percent butterfat content, without deductions for hauling or other charges to be paid by the farm shipper, received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Companies and Location

Borden Co..
- Black Creek, Wis.
- Greenville, Wis.
- Mt. Pleasant, Mich.
- New London, Wis.
- Orfordville, Wis.

Carnation Co..
- Berlin, Wis.
- Jefferson, Wis.
- Chilton, Wis.
- Oconomowoc, Wis.
- Richland Center, Wis.
- Sparta, Mich.

Pet Milk Co..
Belleville, Wis.
Coopersville, Mich.
Hudson, Mich.
New Glarus, Wis.
Wayland, Mich.
White House Milk Co.:
Manitowoc, Wis.
West Bend, Wis.

add an amount computed as follows: Multiply the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture for the delivery period, by .12 and then by 3.

(b) *Class prices.* Subject to the provisions of paragraphs (c) and (d) of this section and § 946.7 (a) each handler shall pay producers, at the time and in the manner set forth in § 946.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk, Class II milk, and Class III milk, computed pursuant to § 946.3 (f)

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.05: *Provided,* That for the delivery periods from the effective date hereof to and including December, 1947, the price for Class I milk shall not be less than $5.00, and that for the delivery periods of January and February, 1948, the price for Class I milk shall not be less than the December, 1947, price less 44 cents.

(2) *Class II milk.* The price for Class II milk shall be the basic formula price plus $0.50: *Provided,* That for the delivery periods from the effective date hereof to and including December, 1947, the price for Class II milk shall not be less than $4.45, and that for the delivery periods of January and February, 1948, the price for Class II milk shall not be less than the December, 1947, price less 44 cents.

(3) *Class III milk.* The price for Class III milk shall be the higher of the prices computed pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) The price per hundredweight computed as follows: from the average of the basic (or field) prices reported by, and ascertained by the market administrator to have been paid by, the following concerns at the manufacturing plants or places listed below for ungraded milk of 4 percent butterfat content, without deductions for hauling or other charges to be paid by the farm shipper, received during the delivery period:

Concern and Location

Kraft Foods Co., Lawrenceburg, Ky.
Armour Creameries, Elizabethtown, Ky.
Armour Creameries, Springfield, Ky.
Kraft Foods Co., Salem, Ind.
Ewing-Von Allmen Co., Corydon, Ind.
Ewing-Von Allmen Co., Madison, Ind.
Producers' Dairy Marketing Association, Orleans, Ind.

subtract an amount computed as follows: multiply the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture for the delivery period, by .12 and then by 2.

(ii) The price per hundredweight computed as follows:

(*a*) Multiply by 3.8 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(*b*) Add 20 percent thereof; and

(*c*) Add 3½ cents per hundredweight for each full one-half cent that the price of nonfat dry milk solids by roller process for human consumption is above 5½ cents per pound. For the purpose of this formula the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices by roller process for human consumption, f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture during the delivery period, including in such average the quotations published for any fractional part of the preceding delivery period which were not published and available for the price determination of such milk solids for the previous delivery period. In the event the carlot prices for such milk solids, f. o. b. manufacturing plants, are not so published, the average of the carlot prices for such milk solids, delivered at Chicago, as published by the Department of Agriculture, shall be used, and the following shall be used in lieu of the computation provided for herein: add 3½ cents per hundredweight for each full one-half cent that the price of such nonfat dry milk solids delivered at Chicago is above 6½ cents per pound.

(c) *Price of Class I milk for relief distribution.* For Class I milk delivered by a handler to the residence of a relief client certified by a recognized relief agency, charged to such an agency, or disposed of by a handler under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, such handler shall pay not less than the price for Class III milk plus 12 cents, adjusted by the butterfat differential specified in paragraph (d) (1) of this section.

(d) *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 946.3 (f), is more or less than 3.8 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of one percent that such weighted average butterfat test is above or below, respectively, 3.8 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 0.13 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(2) *Class II milk.* Multiply by 0.125 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the delivery period; and

(3) *Class III milk.* Multiply by 0.12 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period.

§ 946.5 *Reports of handlers*—(a) *Periodic reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 5th day after the end of each delivery period, all skim milk and butterfat contained in receipts of milk from producers (including milk produced by him) receipts of milk, skim milk, and cream from other handlers, receipts of emergency milk, and receipts of other source milk; and the utilization of all receipts of skim milk and butterfat for the delivery period.

(2) On or before the day emergency milk is received, his intention to receive such milk.

(3) On or before the 5th day after the end of each delivery period, the receipts during the delivery period of emergency milk, the quantity of skim milk and butterfat contained in such milk, the date or dates upon which such milk was received, the plant from which such milk was shipped, the price per hundredweight paid, or to be paid, for such milk, the utilization of skim milk and butterfat contained in such milk, and such other information with respect thereto as the market administrator may request.

(b) *Reports as to producers.* Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which milk was first received, and the plant at which such milk was received: *Provided,* That milk diverted as described in § 946.1 (e) (3) need not be reported pursuant to this paragraph.

(c) *Reports of payments to producers.* Each handler shall submit to the market administrator on or before the 20th day after the end of each delivery period his producer payroll for such delivery period which shall show for each producer the net amount of such producer's payment with the prices, deductions, and charges involved, and the total delivery of milk with the average butterfat test thereof.

(d) *Verification of reports and payments.* (1) The market administrator shall verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler upon whose disposition of skim milk and butterfat contained in milk, skim milk, or other milk products such handler claims classification. Each handler shall keep adequate records of his receipts and utilization of all skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records, reports, and facilities as will enable the market administrator to (i) verify the receipts and disposition of all skim milk and butterfat required to be reported pursuant to this section, and, in case of errors or omissions, ascertain the correct figures; (ii) weigh, sample, and test for butterfat content the milk received from producers and any milk product upon which classification depends; and (iii) verify the payments to producers prescribed in § 946.8.

(2) If, in the verification of the reports of any handler made pursuant to paragraph (a) of this section, it is necessary for the market administrator to examine

the records of milk and milk products handled in a plant of a handler from which no milk is disposed of in the marketing area, such handler shall make such records available to the market administrator. If, in the verification of the reports of any handler made pursuant to paragraph (a) of this section, the market administrator finds that, subsequent to the delivery period for which the verification is being made, any skim milk or butterfat contained in milk received from producers during such delivery period was used in a class other than that in which it was first disposed of, such skim milk and butterfat shall be reclassified accordingly and the adjustments necessary to reflect the reclassified value of such skim milk and butterfat shall be made in the billing computed for such handler for the delivery period following such reclassification.

(e) *Reports from the market administrator to cooperative associations.* On or before the 15th day after the end of each delivery period, the market administrator shall report to each cooperative association as described in § 946.9 (b) the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

§ 946.6 *Application of provisions*—(a) *Handlers who are also producers.* No provisions hereof shall apply to a handler whose only sources of milk supply are receipts from his own production or from other handlers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(b) *Receipts of bulk milk from a handler who is also a producer.* The market administrator, in computing the value of milk for any handler, shall consider as Class III milk any skim milk or butterfat contained in milk, skim milk, or cream received in bulk from a handler whose only source of milk is his own production. If the receiving handler disposes of skim milk or butterfat from such milk, skim milk, or cream, other than as Class III milk, the market administrator shall add to the total value, computed pursuant to § 946.7 (a) the difference between the value of such milk, skim milk, and cream at the Class III price computed pursuant to § 946.4 (b) (3) and the value according to its allocated usage.

(c) *Payment for excess skim milk or butterfat.* In the event that a handler, after subtracting receipts of milk, skim milk, and cream from other handlers, receipts of emergency milk, and receipts of other source milk, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his reports, has been credited to his producers as having been delivered by them, such handler shall pay to producers, through the producer-settlement fund, an amount computed by multiplying the pounds in each class as subtracted pursuant to § 946.3 (e) by the applicable class prices.

§ 946.7 *Determination of uniform prices to producers*—(a) *Computation of value for each handler* For each delivery period the market administrator shall compute, subject to the provisions of paragraphs (b) and (c) of § 946.6, the value of milk of producers received by each handler, by multiplying the quantity in each class, computed pursuant to § 946.3 (f) by the price applicable to such class and adding together such amounts: *Provided,* That if such handler uses butterfat from producers' milk received during April, May, and June, to produce butter, an allowance shall be made in the value of milk computed for such handler at the rate of .10 times the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, on such butterfat so used which is not in excess of 10 percent of such handler's disposition of Class I butterfat computed pursuant to § 946.3 (d) If such handler utilizes emergency milk or other source milk in milk products, the amount of butter allocated to butterfat in milk received from producers shall be a pro rata share based upon the respective volumes of butterfat from each source utilized in milk products.

(b) *Computation and announcement of uniform price.* The market administrator shall compute and announce the uniform price per hundredweight of producer milk containing 3.8 percent of butterfat for each delivery period, as follows:

(1) Combine into one total the respective values computed pursuant to paragraph (a) of this section, for all handlers who made the report prescribed by § 946.5 (a) for such delivery period, except those in default of payments required pursuant to § 946.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of all milk received from producers is in excess of 3.8 percent, or add, if such average butterfat content is less than 3.8 percent, the total value of the butterfat differential applicable pursuant to § 946.8 (f)

(3) Subtract for each of the delivery periods of April, May, and June, 1946, an amount representing 25 cents per hundredweight of milk received from producers by the handlers whose milk values are included under subparagraph (1) of this paragraph, such deduction to be increased to 30 cents per hundredweight during the corresponding delivery periods of 1947, to 35 cents per hundredweight during the corresponding delivery periods of 1948, and to 40 cents per hundredweight during the corresponding delivery periods of each year thereafter;

(4) Add an amount representing the cash balance in the producer-settlement fund, less the amount due handlers pursuant to § 946.8 (e) and less the aggregate of the amounts held pursuant to subparagraph (3) of this paragraph for payment pursuant to § 946.8 (d) (2),

(5) Divide the amount computed pursuant to subparagraph (4) of this paragraph by the total hundredweight of milk of producers;

(6) Subtract from the figure computed pursuant to subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers; and

(7) On or before the 10th day after the end of each delivery period, notify each handler and publicly announce such uniform price, the class prices, and the butterfat differentials provided by § 946.4 (d) and § 946.8 (f)

§ 946.8 *Payment for milk*—(a) *Time and method of payment.* On or before the 15th day after the end of each delivery period, each handler shall pay to each producer, for milk received during the delivery period, an amount of money representing not less than the total value of such producer's milk at the uniform price per hundredweight, subject to the butterfat differential set forth in paragraph (f) of this section: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments due any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 15th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the classification value of his milk, computed pursuant to § 946.7 (a), for the delivery period is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price.

(d) *Payments out of the producer-settlement fund.* (1) On or before the 20th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers any amount by which the classification value of his milk, computed pursuant to § 946.7 (a) for the delivery period is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(2) On or before the 15th day after the end of each of the delivery periods of September, October, and November, beginning in 1946, the market administrator shall pay out of the producer-settlement fund to the producers from whom milk was received during such delivery period an amount computed as follows: Divide one-third of the aggregate amount held pursuant to § 946.7 (t) (3) by the hundredweight of producers' milk delivered during the delivery period involved (September, October, or November, as above) and apply the resulting amount (computed to the nearest full cent per hundredweight) to the milk of each producer for such delivery period: *Provided*, That payment under this subparagraph due any producer who has given authority to a cooperative association which is qualified under the "Capper-Volstead Act" pursuant to § 946.9 (b) to receive payment for his milk shall be distributed to such cooperative association if the association requests receipt of such payments.

(e) *Adjustment of errors in payments*. Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential*. In making payment to each producer, pursuant to paragraph (a) of this section, each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of 1 percent of butterfat content above or below 3.8 percent in milk received from such producer, the amount as shown in the schedule below for the butter price range in which falls the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture, for the delivery period during which such milk was received:

Butter price range (cents)	*Butterfat differential (cents)*
17.499 or less	2
17.50-22.499	2½
22.50-27.499	3
27.50-32.499	3½
32.50-37.499	4
37.50-42.499	4½
42.50-47.499	5
47.50-52.499	5½
52.50-57.499	6
57.50-62.499	6½
62.50-67.499	7
67.50-72.499	7½
72.50-77.499	8
77.50-82.499	8½
82.50-87.499	9
87.50-92.499	9½
92.50 and over	10

§ 946.9 *Marketing services*—(a) *Deductions for marketing services*. Except as set forth in paragraph (b) of this section, each handler shall deduct 4 cents per hundredweight from the payments made directly to producers pursuant to § 946.8, with respect to all milk received by such handler from producers during each delivery period, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative association*. In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 946.8, as are authorized by such producers, and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 946.10 *Expense of administration*. As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (a) milk from producers (including such handler's own production) and (b) emergency milk received at a plant described in subparagraphs (1) and (2) of § 946.1 (e). Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers caused to be delivered by such cooperative association to a plant from which no milk is disposed of in the marketing area.

§ 946.11 *Effective time, suspension, and termination*—(a) *Effective time*. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension and termination*. Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty*. (1) If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate, shall (i) continue in such capacity until discharged, (ii) from time to time account for all receipts and disbursements and, if so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (iii) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(d) *Liquidation after suspension or termination*. Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 946.12 *Agents*. The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

[F. R. Doc. 47-8834; Filed, Oct. 1, 1947; 8:46 a. m.]

NOTICES

TREASURY DEPARTMENT

Bureau of Customs

[T. D. 51757]

CORK AND CORK MANUFACTURES FROM SPAIN

COUNTERVAILING DUTIES

Notice of countervailing duties to be imposed under section 303, Tariff Act of 1930, by reason of the payment or bestowal of a bounty or grant upon the exportation of cork and cork manufactures. Collectors of customs instructed to suspend liquidation of entries of dutiable cork and cork manufactures from Spain and to collect estimated additional duties.

The Bureau has before it information that the Spanish cork and cork manufactures described below exported from Spain pursuant to export licenses issued as the result of applications filed on and after September 1, 1946, have been benefited by the payment of bounties by an agency of the Spanish Government, the amounts of the bounties applicable during the 4-months' period ending December 31, 1946, being set forth opposite the several items:

Spanish classification	*Percentages of bounties based on f. o. b. value*
Ordinary stoppers, natural cork discs and floats	40
Champagne stoppers, paper, wool, artistic cork of natural and compressed cork (cork agglomerates), boxes, handles (including grips), balls, cartridge material (such as plugs), mats, and bobbins (textile mill rolls and cots)	28
Ordinary squares less than 50 mm. long, sheets and soles (strips) of natural cork	24
Discs of compressed cork and joints of compressed cork	13
Cork in sheets classified from 2,500 to 4,999 pesetas per ton	10
Cork in sheets classified from 5,000 pesetas up, per ton	15

Accordingly, notice is hereby given that the above-described cork and cork manufactures imported directly or indirectly from Spain, except any such importations which may be found upon examination to be free of duty under the Tariff Act of 1930, if entered for consumption or withdrawn from warehouse for consumption after 30 days after the publication of this decision in a weekly issue of the "Treasury Decisions," will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed upon their exportation from Spain.

Upon the entry for consumption or withdrawal from warehouse for consumption, on or after the effective date of this notice, of the above-described dutiable cork and cork manufactures imported directly or indirectly from Spain, there shall be collected in addition to any other duties estimated or determined to be due, estimated countervailing duties at the percentage rates set forth above based upon the foreign value of the merchandise, f o. b. place of shipment in Spain. The liquidation of entries covering such merchandise shall be suspended and the facts shall be submitted promptly to the Bureau, together with the entries and associated papers.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: September 26, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-8903; Filed Oct. 1, 1947; 8:45 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 2110960]

CALIFORNIA

RESTORATION ORDER NO. 1214 UNDER FEDERAL POWER ACT

SEPTEMBER 24, 1947.

Pursuant to the determination of the Federal Power Commission (DA-637, California) and in acordance with 43 CFR 4.275 (a) (16) (Departmental Order No. 2238 of August 16, 1946, 11 F. R. 9080) it is ordered as follows:

Subject to existing valid rights and the provisions of existing withdrawals, the lands hereinafter described, having been withdrawn for Power Site Reserve No. 88 by Executive Order of July 2, 1910, are hereby restored to disposition under any applicable public land law, subject to provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat., 1063) as amended by the act of August 26, 1935 (49 Stat., 846; 16 U. S. C., 818)

MOUNT DIABLO MERIDIAN

T. 17 N., R. 10 E., sec. 1, NE¼SE¼SE¼, N½N½SE¼SE¼SE¼, E½NW¼SE¼SE¼, E½W½NW¼SE¼SE¼, N½NE¼SW¼SE¼SE¼, and NE¼NW¼SW¼SE¼SE¼.
T. 17 N., R. 11 E., sec. 6, S½NW¼SW¼ of lot 6, SW¼SW¼ of lot 6, W½W½ of lot 8, and N½NW¼ of lot 9.

The areas described aggregate approximately 34.225 acres.

These lands are within the Tahoe National Forest.

FRED W JOHNSON,
Director

[F. R. Doc. 47-8884; Filed, Oct. 1, 1947; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-949]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

SEPTEMBER 25, 1947.

Notice is hereby given that on September 9, 1947, Northern Natural Gas Company (applicant) a Delaware corporation having its principal place of business at Omaha, Nebraska, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas transmission facilities described as follows:

Approximately 29 miles of 6⅝-inch O. D. pipe line extending in a westerly direction from Applicant's 16-inch main line west of Fremont in Section 16, Township 17 North, Range 8 East, Dodge County, to David City Branch Line at Columbus Tap in Section 23, Township 17 North, Range 3 East, Colfax County, all in the State of Nebraska.

The application recites that the proposed pipe line is to be used for the purpose of delivering increased volumes of natural gas to meet estimates of firm gas demands in the area served by applicant's David City Branch Line in the 1947-48 heating season and demands for such gas in future years. It is further stated that present estimates indicate the facilities now in place will be inadequate to meet demands for firm gas on an estimated maximum day for the 1947-48 heating season.

The estimated total over-all capital cost of construction for the proposed facilities is approximately $274,700, which will be financed out of applicant's general funds.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Northern Natural Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rules 8 and 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 and 1.10)

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 47-8883; Filed, Oct. 1, 1947; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 774]

UNLOADING OF FEED AT KERNERSVILLE, N. C.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 25th day of September A. D. 1947.

It appearing, that 2 cars containing feed at Kernersville, North Carolina, on the Southern Railway Company, have been on hand for an unreasonable length of time and that the delay in unloading said cars is impeding their use; in the opinion of the Commission an emergency exists requiring immediate action: it is ordered that:

(a) *Feed at Kernersville, North Carolina, be unloaded.* The Southern Railway Company, its agents or employees, shall unload immediately MOP 94470 and NKP 15481, feed, now on hand at Kernersville, North Carolina, consigned to Pilot Mills.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or collect or receive any demurrage or storage charges, for the detention under load of any car specified in paragraph (a) of this order, for the detention period commencing at 7:00 a. m., September 28, 1947, and continuing until the actual unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations, or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify Homer C. King, Director, Bureau of Service, Interstate Commerce Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, that this order shall become effective immediately; and that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 911, 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 47-8897; Filed, Oct. 1, 1947; 8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-159, 54-160, 54-162, 54-164]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING ON PLANS FILED AND ORDER OF CONSOLIDATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 25th day of September A. D. 1947.

I. Notice is hereby given that Bartholomew A. Brickley, a registered holding company in his capacity as Trustee of the Estate of International Hydro-Electric System ("IHES"), also a registered holding company, Paul H. Todd, as a holder of Class A stock of IHES, Gabriel Caplan, as a holder of preferred stock of IHES and C. Shelby Carter and Ralph H. Haas, acting as a protective committee for the preferred stock of IHES, have each filed plans, pursuant to section 11 (d) of the Public Utility Holding Company Act of 1935, purporting to effectuate the liquidation and dissolution of IHES. An amendment to Todd's plan was subsequently filed. The Commission, by order of July 21, 1942, directed the liquidation and dissolution of IHES, and instituted, pursuant to section 11 (d) of the act, a proceeding for the enforcement of its order which is now pending in the District Court of the United States for the District of Massachusetts. Any plan approved by us will be for submission to the District Court.

All interested persons are referred to said plans which are on file in the office of the Commission. A brief description of IHES and a summarization of the filings follow:

IHES was created by a declaration of trust dated March 25, 1929 under the laws of the Commonwealth of Massachusetts. As at June 30, 1947, IHES' outstanding securities consisted of $26,568,000 principal amount of Convertible 6% Gold Debentures, due April 1, 1944; 142,799 shares of cumulative preferred stock, $3.50 series, par value $50 per share, aggregating $7,139,950; and 856,718 shares of Class A stock, par value $25 per share, aggregating $21,417,959. As at June 30, 1947, dividend arrears applicable to the preferred stock amounted to $6,476,530 or $45.35 per share. As at the same date, IHES' principal assets consisted of 1,439,024 shares (86.56%) of common stock, no par value, of Gatineau Power Company ("Gatineau"), 320,000 shares (100%) of common stock, par value $25 per share, of Eastern New York Power Corporation ("ENYP") 250 shares (100%) of capital stock, par value $100 per share, of Corinth Electric Light and Power Company ("Corinth"), 534,157 shares (7.9%) of common stock of New England Electric System ("NEES"), 842 shares (33.33%) of common stock, no par value, and $314,500 open account advances of Moreau Manufacturing Company ("Moreau"), and net current assets (after reserve for legal and other expenses relative to liquidation of IHES and settlement of claims against International Paper Company) in the amount of $8,841,000, prior to the proposed partial payment referred to below.

Since the filing of the various plans, the Commission and the District Court have approved a plan filed by the Trustee of IHES for a cash payment of 30% ($7,970,400) of the principal amount of the presently outstanding debentures.

II. *Trustee's plan.* The plan filed by Brickley, Trustee, contains the following provisions:

1. It is proposed that the securities owned by IHES be distributed as follows:

(a) The holders of the Convertible 6% Gold Debentures, due April 1, 1944, will receive for each $1,000 bond (in addition to the payment of $300 in cash approved by the Commission and the District Court)

20 shares of NEES common stock.
20 shares of Gatineau common stock.

Interest on the unpaid principal amount of debentures will be paid to the date of consummation of the plan.

(b) The holders of the preferred stock will receive for each share of such stock (including dividends in arrears):

6 shares of Gatineau common stock.

(c) The holders of Class A stock will have distributed to them the 320,000 shares of ENYP common stock and cash remaining after the sale of the following residual assets of IHES (after payment of taxes, expenses, fees and costs of liquidation)

2,797 shares of NEES common stock.
59,870 shares of Gatineau common stock.
3 shares of Gatineau preferred stock.
250 shares of Corinth common stock.
842 shares of Moreau common stock.

2. It is provided that on the consummation date of the plan the rights of all holders of IHES securities will cease and such holders will then and thereafter be entitled to receive the securities (and cash, if any) provided for under the plan upon surrender for exchange of their IHES securities, duly endorsed or assigned, at the office of the exchange agent designated for that purpose. The holders may make such exchanges at any time within three years after the consummation date and until such exchange any dividend paid on the shares to be issued in exchange will be held by the exchange agent. At the expiration of the three year period, the exchange agent in his discretion may sell any or all of the unexchanged shares then held by it and give notice to each holder of an unexchanged security of IHES at his last known address that it holds his proportionate share of the proceeds of such sale for his account.

3. It is further provided that IHES will pay such fees and remuneration for services rendered and will make reimbursements for proper costs incurred in connection with the plan and the proceedings relating thereto as the Commission and the District Court shall finally determine, award or allocate upon petition of any interested person.

4. The Trustee requests that the Commission's order contain findings and recitals necessary to meet the requirements of Supplement R and subsection (f) of section 1808 of the Internal Revenue Code, as amended, and any other section thereof providing exemptions or benefits with respect to transactions in obedience to or in compliance with orders of the Commission.

Todd plan. The principal provisions in the amended plan filed by Todd are summarized as follows:

1. It is proposed that the following distribution of IHES assets be made to its security holders (upon the assumption that no partial payment has theretofore been made)

(a) The holders of the debentures will be offered, on a voluntary basis, in exchange for each $1,000 debenture:

$300 in cash.
33 shares of Gatineau common stock.
4 shares of NEES common stock.

Holders not accepting the exchange will be paid off in cash at par plus accrued interest from cash on hand, cash from sales of assets, dividend income, and from the proceeds of such short-term loans as the Commission might authorize.

(b) Following the complete liquidation of the debentures of IHES and any short-term loans incurred for purpose of liquidating the debentures, the remaining assets will be distributed to the holders of preferred stock and Class A stock on the following basis:

1,285,115 participating certificates to be issued to the preferred and Class A shareholders; 3 such certificates would be issued for each preferred share and 1 for each Class A share; equal amounts of each asset of IHES would then be distributed for each certificate.

2. It is provided that expenses incident to the confirmation of the plan and proceedings relating thereto, together with the fees and expenses of other persons in connection therewith, would be paid by IHES subject to the approval of the Commission.

3. It is requested that the order of the Commission conform to the pertinent requirements of section 1808 (f) of the Internal Revenue Code, as amended, and Supplement R, including sections 371 and 373 (a) thereof, as amended, with all the recitals, specifications and itemizations as required under the provisions of the Internal Revenue Code.

Caplan plan. The principal provisions of the plan filed by Caplan are summarized as follows (upon the assumption that no partial payment has theretofore been made)

1. The plan proposes the immediate payment of the $10,000,000 held by the Trustee of IHES to its debenture holders on a pro rata basis of approximately $375 on each $1,000 debenture.

2. It is proposed that a bank loan of $17,400,000 be obtained for a period of six months, the proceeds to be used to pay off the balance owed by IHES to the debenture holders in the amount of $17,365,040.

3. It is further proposed that an immediate sale be made, at competitive bidding, of the major stock holdings of IHES consisting of:

1,439,024 shares of Gatineau common stock.
530,000 shares of NEES common stock.
320,000 shares of ENYP common stock.

The proceeds of the above sales are to be used as follows:

(a) To satisfy and discharge the bank loan of $17,400,000.

(b) To pay off the preferred stock claim at par plus accrued dividends, and

(c) To distribute pro rata the balance to Class A stockholders.

4. The plan further proposes that after payment of all liquidation expenses a pro rata distribution of all remaining assets be made to the Class A stockholders. Upon completion of this step, IHES would be dissolved.

The plan further states that provision can be made for an alternative to the sale at competitive bidding of the major stock holdings of IHES should the Class A stockholders be unwilling to have the assets sold at competitive bidding. Under such alternative, rights would be offered to the Class A stockholders to purchase said assets at prices which would give the IHES sufficient funds to pay off its bank loan and the claims of the preferred stockholders.

Carter Committee plan. The plan filed by C. Shelby Carter and Ralph H. Haas, acting as a protective committee for the preferred stock of IHES, contains the following provisions (upon the assumption that no partial payment has theretofore been made)

1. It is prosposed that there be issued to each holder of 100 shares of Class A stock of IHES three negotiable warrants good for 20 days, giving the holder the right to purchase shares of three underlying companies as follows:

(a) 150 shares of Gatineau common stock at $15 per share;
(b) 50 shares of NEES common stock at $14 per share; and
(c) 30 shares of ENYP common stock at $20 per share.

Warrants for the purchase of proportionate number of shares will be issued to holders of less than 100 shares of Class A stock.

It is provided that in the event the market price of Gatineau common stock shall average for the five business days preceding the entry of an order of the District Court directing the consummation of the plan less than $16 per share, then the warrant price for said stock shall be reduced so that the warrant price shall be $1 per share less than the said average market price but in no event shall be less than $13 per share. In the event that the market price of NEES common stock shall average for the five business days preceding an entry of an order of the District Court directing the consummation of the plan less than $15 per share, then the warrant price shall be reduced so that the price shall be $1 per share less than the said average market price but in no event shall be less than $12 per share.

The cash realized through the exercise of said warrants will be applied to the retirement of the outstanding debentures of IHES at par plus accrued interest.

2. To the extent that shares of the said three underlying companies remain unsold after the exercise of the warrants by Class A stockholders, the holders of IHES debentures shall be given the right to exchange, for a period of 20 days, their debentures and claims for accrued interest for stocks of one or more of the three underlying companies at the warrant price.

3. To the extent that shares of the three underlying companies are available after the exercise of the warrants by Class A stockholders, or their assigns, and after the exercise of the options to exchange by the debenture holders, the preferred stockholders, at their individual election, shall be offered an opportunity to exchange their preferred stock at the above prices for the shares of one or more of the said underlying companies, calculating the value of the preferred shares, for the purpose of such exchange, at the par value plus the accrued dividends.

4. It is proposed that the issuance of the above warrants and the offering of the options to exchange shall take place simultaneously and that all security holders shall be given appropriate notice that upon the expiration of 20 days, the securities of the three underlying companies will be allocated first to the warrants issued to the Class A stockholders, thereafter to the extent that such stock of the said underlying companies remains available, to the debenture holders who have elected to exercise an option to exchange, and finally, to the extent that the common stock of each of the said underlying companies is available, to the preferred stockholders who have elected to make such exchange.

5. In the event that sufficient cash is not realized through the exercise of the warrants to pay off at par plus accrued interest the debentures which remain after the exercise by the debenture holders of the option to exchange and sufficient cash to pay off the preferred stock at par plus secured dividends which may remain outstanding after the exercise of the options to exchange by the preferred stockholders, then so much of the stock of each of the three underlying companies shall be offered for sale under competitive bidding as will raise the funds needed to pay off the IHES debentures and the preferred stock then outstanding. Separate bidding shall be had with respect to the stock of each of the said underlying companies. Such bids would be conditional upon the rights to be given to the Class A stockholders to purchase said assets at the same price offered by the highest bidder for a period of 15 days after the mailing of appropriate notice to the Class A stockholders. The Class A stockholders would be afforded an opportunity to purchase shares of each of the said underlying companies at the said bid price for 15 days in the ratio which each 100 shares of Class A stock bears to the total number of shares of each of the said underlying companies offered for sale under said competitive bidding.

6. The shares of the three underlying companies and all remaining assets shall thereafter be distributed pro rata, in kind, to the Class A stockholders, after the payment of administration expenses and IHES shall be dissolved.

7. It is recommended that the cash of approximately $10,000,000 now on hand as a result of the settlement of IHES' claim against International Paper Company be distributed pro rata to the debenture holders as promptly as possible. If such payment is made prior to the consummation of the plan, the number of shares of common stock of the three underlying companies which the debenture holders would receive, as provided in paragraph 2 of the plan here proposed, would be correspondingly reduced. If said cash on hand is not so applied prior to the date of the consummation of the plan, then such cash, together with the cash to be received through the sale of stock of the said underlying companies, as provided in the plan, shall be applied to the retirement of the outstanding debentures at their face amount together with accrued interest, the preferred stock at par plus accrued dividends and to the payment of administration expenses.

8. It is provided that all expenses incident to the confirmation of the plan

and proceedings relating thereto, together with fees and expenses of all persons lawfully entitled to compensation and reimbursement of expenses in connection therewith, shall be paid by IHES in such amounts as shall be determined by the District Court but not to exceed amounts fixed by the Commission.

III. It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that hearings be held with respect to the plan of the Trustee of IHES and the plans of Todd, Caplan, and of the Committee for preferred stock, either as filed, or as they may hereafter be modified, or of any other plans with respect to such company which may be proposed by the Commission or by any person having a bona fide interest in the reorganization in accordance with the provisions of section 11 (d) of the act; and

It further appearing that the proceedings herein with respect to the plan of the Trustee of IHES (File No. 54-164) and the proceedings with respect to the plans of Todd (File No. 54-159) Caplan (File No. 54-160) and of the Committee for preferred stock (File No. 54-162) involve common questions of law and fact and that substantial savings of time and expense will result if all of such proceedings are consolidated and heard together;

It is hereby ordered, That the proceeding with respect to the plan of the Trustee (File No. 54-164) and the proceedings with respect to the plans of Todd (File No. 54-159), Caplan (File No. 54-160) and of the Committee for preferred stock (File No. 54-162) be, and the same are hereby consolidated, without prejudice to the right of the Commission to separate either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions or matters herein set forth or which may arise in these proceedings, or to consolidate with these proceedings other filings or matters pertaining to said plans or to take such other action as many appear necessary or appropriate to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That a public hearing, under the applicable provisions of the act and rules and regulations promulgated thereunder be held in these consolidated proceedings on October 28, 1947, at 10:00 a. m., e. s. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, in such room as may be designated on that day by the hearing room clerk in Room 318. At such consolidated hearing consideration will be given to the plans described above, or as modified, and to such other plans which may be filed or proposed during the course of the proceedings. In the event that amendments to any of the aforementioned plans are filed or other plans are filed or proposed during the course of said proceedings no notice of such amendments or plans will be given unless specifically ordered by the Commission.

It is further ordered, That any person desiring to be heard or otherwise wishing to participate in these proceedings shall file with the Secretary of this Commission on or before October 27, 1947, a written request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act, and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary examination of each of the plans and that, on the basis thereof, the following matters and questions are presented for consideration by the Commission without prejudice however to its specifying additional matters or questions upon further examination:

1. Whether any of the proposed plans as submitted, or as hereafter modified, are necessary to effectuate the provisions of section 11 (b) of the act and are in conformity with the requirements of the Commission's order of July 21, 1942;

2. Whether any of the proposed plans as submitted, or as hereafter modified, are fair and equitable and feasible;

3. To what extent, if at all, any of the proposed plans should be modified to render it fair, equitable and feasible or for any other reason;

4. Whether the fees, expenses and other remunerations which may be claimed in connection with each of the proposed plans and related proceedings are for necessary services and are reasonable in amount;

5. Whether the proposed accounting treatment in connection with each of the proposed plans is appropriate and in accordance with sound accounting principles and practices;

6. Whether, in the event the Commission shall not approve any of the proposed plans, as filed or as modified, a plan proposed by the Commission, or by any qualified person in accordance with the provisions of section 11 (d) of the act, should be approved for the purpose of effectuating the order of the Commission of July 21, 1942, directing the liquidation and dissolution of IHES, and if proposed by the Commission, what the terms and provisions of such plan should be;

7. Generally, whether the proposed transactions in each of the plans are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and rules thereunder and, if not, what terms and conditions should be imposed to satisfy the applicable statutory standards.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of said hearing by mailing a copy of this notice and order by registered mail to Bartholomew A. Brickley, Trustee, Chemical Bank and Trust Company, Indenture Trustee, Paul H. Todd, Gabriel Caplan, C. Shelby Carter, Ralph H. Haas, and to Mortimer J. Davis and Lucius H. Coleman, constituting a committee for the debenture holders of IHES, and to all other persons who have heretofore entered their appearance in Civil Action No. 2430 in the District Court of the United States for the District of Massachusetts, or to their respective attorneys of record; and that notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and that further notice be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

It is further ordered, That further notice of said hearing be given by the Trustee by mailing a copy of this notice and order to all debenture holders, whose names and addresses are available to him, and to all stockholders of record at their record addresses at least 15 days prior to the date of this hearing, and by publication of this notice and order in four daily newspapers of general circulation published respectively in Boston, Massachusetts, New York City, New York,, Montreal, Canada, and Toronto, Canada.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-8887; Filed, Oct. 1, 1947; 8:45 a. m.]

[File Nos. 70-1608—70-1615]

GARDNER ELECTRIC LIGHT CO. ET AL.

ORDER PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 26th day of September A. D. 1947.

In the matter of Gardner Electric Light Company (File No. 70-1608) The Lowell Electric Light Corporation (File No. 70-1609), Weymouth Light and Power Company (File No. 70-1610), Northampton Electric Lighting Company (File No. 70-1611), Northern Berkshire Gas Company (File No. 70-1612) Worcester County Electric Company (File No. 70-1613) Attleboro Steam and Electric Company (File No. 70-1614) and Worcester Suburban Electric Company (File No. 70-1615) all subsidiaries of New England Electric System, a registered holding company, having each filed a declaration, and an amendment thereto, pursuant to section 7 of the Public Utility Holding Company Act of 1935, with respect to the following transactions:

Declarants propose the issuance and sale to a bank or banks, from time to time, of unsecured promissory notes in the following aggregate principal amounts, maturing not later than one year after the issuance and bearing interest at a rate not in excess of 1¾% per annum:

Gardner Electric Light Co	$320,000
The Lowell Electric Light Corp	750,000
Weymouth Light & Power Co	150,000
Northampton Electric Lighting Co	150,000
Northern Berkshire Gas Co	200,000
Worcester County Electric Co	1,500,000
Attleboro Steam & Electric Co	250,000
Worcester Suburban Electric Co	650,000

The proceeds of the loans will be used by declarants for construction costs already incurred and for reimbursement of the treasury and for construction costs which will be incurred prior to June 30, 1948; and

Declarants having stated that no state commission, or other Federal Commission, has jurisdiction over the proposed transactions; and

Declarants having requested that the Commission's order permitting said declarations, as amended, to become effective be issued on or before September 29, 1947 and that said declarations, as amended, become effective forthwith; and

Said declarations (File Nos. 70-1608, 70-1609, 70-1610; 70-1611, and 70-1612) having been filed on August 27, 1947, and declarations (File Nos. 70-1613, 70-1614 and 70-1615) having been filed on August 29, 1947, and an amendment to each declaration having been filed on September 10, 1947, and notice of said filings, as amended, and order consolidating the proceedings having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to any of said declarations within the period specified in said notice, or otherwise, and the Commission not having ordered a hearing thereon; and

The Commission finding with respect to said declarations, as amended, that the requirements of the applicable provisions of the act and rules and regulations thereunder are satisfied and that no adverse findings are necessary thereunder, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declarations, as amended, be permitted to become effective:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act, and subject to the terms and conditions prescribed in Rule U-24, that said declarations, as amended, be and the same hereby are permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-8888; Filed, Oct. 1, 1947; 8:45 a. m.]

[File No. 70-1616]

OKLAHOMA GAS AND ELECTRIC CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 26th day of September 1947.

Oklahoma Gas and Electric Company, a subsidiary of Standard Gas and Electric Company, a registered holding company, having filed an application and an amendment thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 regarding the issuance of promissory notes to certain banks on or before October 15, 1947 in an aggregate amount of $3,500,000, which notes will mature on December 31, 1949 and bear interest at the rate of 1¾% per annum, payable quarterly, and the issuance and pledge of $3,500,000 principal amount of first mortgage bonds, series of 1947, due February 1, 1975, 2¾%, as collateral security for said promissory notes; and

A public hearing having been held after appropriate notice, and the Commission having considered the record and having made and filed its findings and opinion herein;

It is ordered, Subject to the terms and conditions prescribed in Rule U-24, that the application, as amended, be, and the same hereby is, granted, and that the proposed transactions may be consummated forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-8886; Filed, Oct. 1, 1947; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9797]

SOPHIE ROSCHKE

In re: Estate of Sophie Roschke, deceased. File No. D-28-11673; E. T. sec. 15885.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paul Manthey, Bruno Manthey and Leonhard Manthey, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of Sophie Roschke, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by John H. Roschke and Alfred Parciany, also known as Fred R. Parciany, as Co-Executors, acting under the judicial supervision of the Surrogate's Court of Kings County, State of New York;

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-8905; Filed, Oct. 1, 1947; 8:45 a. m.]

[Vesting Order 9865]

AUTOMOBILE OWNED BY GERMANY

In re: One (1) automobile owned by Germany.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: One (1) Horch 7 passenger 1939 sedan, Model 951, Serial No. 952-584, 5620, Engine No. 852-147, Title No. A-11180, Chassis No. 952584;

formerly under the protection of the Legation of Switzerland for the former German Government and presently in the custody of the Department of State, Washington, D. C.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country (Germany),

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-8907; Filed Oct. 1, 1947; 8:45 a. m.]